

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

WILLIAM G. ELLISON
MARGARET Q. ELLISON

Debtors.

CHAPTER 11
BANKRUPTCY NO.

83-00312

J U D G M E N T

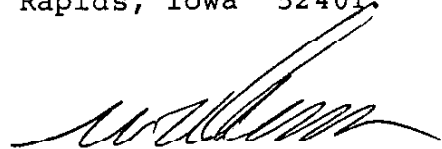
FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
NOV 21 1984
BARBARA A. EVERLY, CLERK

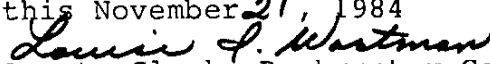
Pursuant to Stipulation for Judgment entered this date;

IT IS ORDERED Borg-Warner Acceptance Corporation recover of William G. Ellison the amount of Thirty-six Thousand Eight Hundred Twenty-four Dollars (\$36,824.00) with interest at ten (10) percent from March 19, 1984, and fifteen (15) percent from the date of this judgment and attorney fees in the amount of \$2,500.00.

IT IS FURTHER ORDERED this Judgment shall be entered in the Docket of the Clerk of this Court and that notice of the entry of this Judgment shall be given by ordinary mail to R. Scott Rhinehart, Attorney for Borg-Warner Acceptance Corporation, 515 Frances Building, Sioux City, Iowa 51101; William G. Ellison, Rural Route, Solon, Iowa 52333; R. Fred Dumbaugh, Attorney for Debtors, Ninth Floor, The Center, Cedar Rapids, Iowa 52401.

ORDERED: November 21, 1984


WILLIAM W. THINNES
Bankruptcy Judge

Copies mailed to
parties as above set forth
with copy of Stipulation
for Judgment,
this November 21, 1984

Deputy Clerk, Bankruptcy Court
P O Box 4371, Cedar Rapids, IA 52407

RECORDED: Volume 1
Page 144

OCT 09 1992

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF IOWA

BARBARA A. EVERLY CLERK

IN RE:)	
	)	CHAPTER 11
William G. Ellison)	
Margaret Q. Ellison	)	Bankruptcy No. 83-00312
)	
BORG-WARNER ACCEPTANCE)	
ACCEPTANCE CORPORATION,)	
Plaintiff,)	
	)	Adversary No. 84-0115C
vs.)	
)	
WILLIAM G. ELLISON,	)	SATISFACTION OF JUDGMENT
Defendant.)	
)	

COMES NOW, Waterhouse Auctioneers, the owner and holder of the judgment rendered in the above-entitled cause of action and does hereby acknowledge full satisfaction of the judgment herein rendered on the 21st day of November, 1984, and recorde at Volume 1, Page 144, of the records of the Clerk of the Bankruptcy Court. The costs herein have been paid. The Clerk of this Court is hereby given full authority to file this satisfaction of record and enter the release and discharge of said judgment on the records maintained in her office.

Dated this 28 day of September, 1992.

WATERHOUSE AUCTIONEERS

BY W. Wesley Waterhouse
W. WESLEY WATERHOUSE

Dated this 18th day of September, 1992.

BY Marvin Waterhouse
Marvin Waterhouse

Copy handed to
filing attorney
on date filed

don

Recorded: Vol. I
Page 144

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF IOWA

OCT 09 1992

IN RE:

BARBARA A. EVERLY CLERK

William G. Ellison	*	CHAPTER 11
Margaret Q. Ellison	*	
	*	BANKRUPTCY NO. 83-00312
BORG-WARNER ACCEPTANCE	*	
CORPORATION,	*	ADVERSARY PROCEEDING NO.
Plaintiff,	*	84-0115C
vs.	*	
	*	SATISFACTION OF JUDGMENT
WILLIAM G. ELLISON,	*	
Defendant.	*	

* * * * *

The undersigned owner and holder of the judgment rendered in the above-entitled cause does hereby acknowledge full satisfaction of the judgment herein rendered on the 21st day of November, 1984, and recorded at Volume 1, Page 144, and the costs herein having been paid, this will be full authority to the Clerk of this Court to file this satisfaction of record and enter the release and discharge of said judgment on the records in his office.

Dated this 2 day of September, 1992.

BORG-WARNER ACCEPTANCE CORPORATION

BY R. Scott Rhinehart
R. Scott Rhinehart 482729903
Richard Rhinehart & Associates
310 Frances Building
Sioux City, Iowa 51101

ATTORNEY FOR PLAINTIFF

STATE OF IOWA)
COUNTY OF WOODBURY) ss

On this 2nd day of September, 1992, before the Page 144
Copy handed to
filing attorney dm
on date filed

Recorded:
Vol. I

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q. Ellison

Debtor

Borg-Warner Acceptance Corp.
v.

Plaintiff

William G. Ellison

Defendant

Bankruptcy Case No.
83-00312

Adversary Proceeding No.

84-0115C

RECEIVED
JUL 11 1991
JOHNSON COUNTY
IOWA CITY, IOWA
506
copy

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: William G. Ellison
R.R. 2
Box 45K
Solon, Iowa 52333

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 52407	Room Date and Time August 29, 1991 at 9:00 a.m.
--	---

YOU ARE COMMANDED TO BRING with you the following documents and objects:

[If not applicable, enter "None"]

Please bring with you copies of any and all correspondence, checks, receipts or other documentation which reflects communication surrounding the Satisfaction of Judgment, its filing, its preparation and any payment made in connection with the Satisfaction of Judgment. Also please bring with you Federal income tax returns for 1984 through 1990.

Subpoena issued on the request of:
[Name of Party]

Attorney R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
PLAINTIFF

Inquiries may be addressed to:

[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101



July 5, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

Theresa M. Kula

By: U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

7-25-91

32

CERTIFICATE OF SERVICE

I, David M. Stanton, certify that I am, and at all times during the service
(name)
of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of
this subpoena was made. I further certify that the service of this subpoena was made on 7-24-91
(date)
by delivering a copy of this subpoena, and ~~tendering the attendance fees and mileage allowed by law,~~ to
William G. Ellison, a witness in this case, at: RR2 Solon Iowa
(name)

Under penalty of perjury, I declare that the foregoing is true and correct.

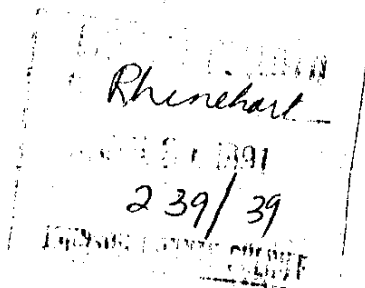
Robert Carpenter *Sherriff*

7-24-91
Date

David M. Stanton *52:30*
Deputy Signature

Print Name		
<u>David M. Stanton</u>		
Business Address		
<u>511 S. Capitol St</u>		
City	State	Zip
<u>Iowa City</u>	<u>Iowa</u>	<u>52240</u>

Service 16.00
Mileage 7.98
Copies 50
Total 23.48



United States Bankruptcy Court

NORTHERN

District of

IOWA

In re

William C. Ellison
Margaret Q. Ellison

Debtor

Borg-Warner Acceptance Corp.
v.

Plaintiff

William G. Ellison

Defendant

Bankruptcy Case No.
83-00312

Adversary Proceeding No.
84-0115C

JOHNSON COUNTY
IOWA CITY
1991 JUL 11 PM 6:50
50% copy

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Lt. M. Christensen
Johnson County Sheriff's Department
417 S. Clinton Street
Iowa City, Iowa 52240

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 50241	Room
	Date and Time August 29, 1991 at 9:00 a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:
[If not applicable, enter "None"]

Please bring with you any and all documents which reflect collection efforts against William G. Ellison at the request of Borg-Warner Acceptance Corporation including correspondence from Attorneys in this regard.

Subpoena issued on the request of:
[Name of Party]
Plaintiff

Inquiries may be addressed to:
[Attorney's name, address and phone]
R. Scott Rhinehart
Richard Rhinehart & Associates
310 Frances Bldg
Sioux City, Iowa 51101



July 5, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

By: *Theresa M. Kula*
U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

7-2391

CERTIFICATE OF SERVICE

I, Gayle C Svatos (name), certify that I am, and at all times during the service of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of this subpoena was made. I further certify that the service of this subpoena was made on July 11, 1991 (date) by delivering a copy of this subpoena, and ~~tendering the attendance fees and mileage allowed by law~~, to Lt. M. Christiansen (name), a witness in this case, at:

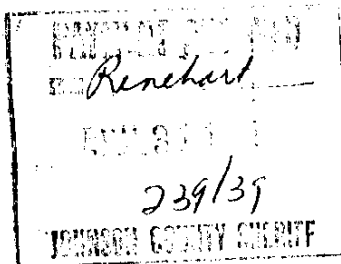
Under penalty of perjury, I declare that the foregoing is true and correct.

July 11, 1991 Date
Robert Carpentier Sheriff
Gayle C Svatos, deputy sheriff Signature

Print Name		
Gayle C Svatos		
Business Address		
PO Box 2540		
City	State	Zip
Iowa City	Ia	52244

Service 15.00
mileage 1.00

Total 16.00



United States Bankruptcy Court

NORTHERN District of IOWA

In re
William G. Ellison
Margaret Q. Ellison

Borg-Warner Acceptance Corp.
v.

William G. Ellison

Debtor

Plaintiff

Defendant

Bankruptcy Case No.
83-00312

SEP 25 1991

Adversary Proceeding No.

84-0115C

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Franklin York, Esq.
500 Higley Building
P.O. Box 75062
Cedar Rapids, Iowa 52407

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 52407	Room
	Date and Time August 29, 1991 at 9:00a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:

[If not applicable, enter "None"]

Please bring with you any and all documents which reflect your representation of Waterhouse Auctioneers, the responsibility associated with that representation, any documents which reflect the authority to execute the Settlement and Release document, and any documents which reflect payment by William G. Ellison to Waterhouse Auctioneers, Borg-Warner Acceptance Corporation and or Shebetka.

Subpoena issued on the request of:
[Name of Party]

Attorney R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
PLAINTIFF

Inquiries may be addressed to:

[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101



July 5, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

Theresa M. Keala

By: **U.S. BANKRUPTCY COURT**
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

In the Iowa District Court, for Linn County

Case Name BORG-WARNER VS ELLISON
 Case No. 83-00312
 Notice recd. this date 7-10-91

STATE OF IOWA }
 LINN COUNTY } ss.

RETURN OF SERVICE:

	Type of Service Code
<input type="checkbox"/> Personal	1
<input type="checkbox"/> Dwelling/Substitute	2
<input type="checkbox"/> Hotel/Boarding/Rooming House	3
<input type="checkbox"/> Corporation/Association	4
<input type="checkbox"/> Official (State, County, City)	5
<input type="checkbox"/> Spouse away from residence	6
<input type="checkbox"/> Other	7
<input type="checkbox"/> Diligent Search (not served)	8

I certify that I (served) ~~(attempted to serve)~~ a copy of:

- ☐ Petition and Original Notice
☐ Modification/Application and Notice
☐ Order to Show Cause

- ☐ Order Filed _____
☐ Writ _____
☐ Other _____
 xxxxx ☒ Subpoena _____

<u>FRANKLIN YORK</u>	at	<u>500 HIGLEY BLDG</u>	on	<u>7-16-91</u>	Type Code <input type="checkbox"/>
(NAME)		(ADDRESS)		(DATE)	
_____	at	_____	on	_____	<input type="checkbox"/>
_____	at	_____	on	_____	<input type="checkbox"/>
_____	at	_____	on	_____	<input type="checkbox"/>
_____	at	_____	on	_____	<input type="checkbox"/>
_____	by serving	_____	at	_____	<input type="checkbox"/>
(NAME)		(NAME)		(ADDRESS)	

_____ on _____, (a person residing therein who was then at least 18 years old) or (spouse away from residence). (Strike non-applicable part).

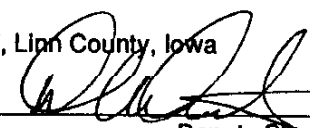
_____ by serving _____
 (COMPANY/GOVERNMENT UNIT NAME) (NAME)

_____, on _____, at _____
 Its (TITLE) (DATE)

NOTES: (Diligent Search, etc.)

Fees:
 Process 15.00
 Mileage 7.00
 Copy 30
 Total 16.50

Dennis H. Blome, Sheriff, Linn County, Iowa

BY: D. WHARTON 
 Deputy Sheriff

Fees ~~charged to~~ paid by Atty/Party: AUG 07 1991

Richard R. Rhinehart & Assoc.

NOTE: Copy of Original Notice, if served, must be attached to this form.

2-16-MILL

365-5111

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q. Ellison

Bankruptcy Case No.
83-00312

Debtor
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

Plaintiff

SEP 25 1991

Adversary Proceeding No.
84-0115C

Defendant

Borg-Warner Acceptance Corp.
v.
William G. Ellison

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To:
Wythe Willey, Esq.
425 2nd St. S.E.
Cedar Rapids, Iowa 50241

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address	Room
Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 50241	Date and Time August 29, 1991 at 9:00 a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:

[If not applicable, enter "None"]

Please bring with you any and all files, copies, correspondence, drafts, or receipts showing payment, from William G. Ellison to Waterhouse Auctioneers, Wesley Waterhouse or Marvin Waterhouse.

Subpoena issued on the request of:
[Name of Party]

Attorney R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

PLAINTIFF

Inquiries may be addressed to:

[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101



July 5, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

By: *Theresa M. Kula*
U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

CERTIFICATE OF SERVICE

I, DEPUTY DONALD WHARTON, certify that I am, and at all times during the service
(name)
of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of
this subpoena was made. I further certify that the service of this subpoena was made on 7-22-91
(date)
by delivering a copy of this subpoena, ~~and tendering the attendance fees and mileage allowed by law,~~ to
WYTHE WILLEY, a witness in this case, at:
(name)

425 2nd ST SE. CEDAR RAPIDS IOWA

WITNESS REQUESTED WITNESS AND MILEAGE FEES.

NO CHECK WAS ATTACHED

Under penalty of perjury, I declare that the foregoing is true and correct.

7-22-91

Date

DONALD WHARTON

Signature

Print Name DONALD WHARTON		
Business Address LINN CO SHERIFF DEPT		
City CEDAR RAPIDS IOWA	State	Zip

LINN COUNTY, IOWA
FEES
Service - - \$ 15.00
Mileage - - \$ 1.00
Total - - \$ 16.00

Date AUG 07 1991
WITNESS FEES PAID BY
Richard R. Linehart
SHERIFF, LINN COUNTY, IOWA & Assoc.
By W. Lang

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q. Ellison

Borg-Warner Acceptance Corp.
v.

William G. Ellison

Bankruptcy Case No.
83-00312

Debtor

Plaintiff

Defendant

SEP 25 1991

Adversary Proceeding No. 84-0115C

84-0115C

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Ronald Wendt, Esq.
200 First Street S.W.
Cedar Rapids, Iowa 52404

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 52407	Room
	Date and Time August 29, 1991 at 9:00 a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:

[If not applicable, enter "None"]

Please bring with you any and all documents which reflect the understanding, agreement, or final form of Release and Settlement Agreement executed by yourself on behalf of Shebetkas as well as any documents reflecting the correspondence between Attorney York and Attorney Wendt, documents reflecting York's authority to execute the Settlement and Release document, and any ledgers or receipts showing payments from Waterhouse Auctioneers or Franklin York to Shebetka pursuant to the Release and Settlement Agreement.

Subpoena issued on the request of:

[Name of Party]

Attorney R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

PLAINTIFF

Inquiries may be addressed to:

[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101



July 5, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

By: *Theresa M. Kula*
U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

10058

CERTIFICATE OF SERVICE

I, MARK SHEELY, certify that I am, and at all times during the service
(name)
of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of
this subpoena was made. I further certify that the service of this subpoena was made on 07-22-91
(date)

by delivering a copy of this subpoena, and tendering the attendance fees and mileage allowed by law, to
RONALD WENDT, a witness in this case, at:
(name)

SERVICE- 15.00
MILEAGE 1.00
TOTAL 16.00

Date AUG 07 1991
SHERIFF'S FEES PAID BY
Richard Rhinehart
SHERIFF, LINN COUNTY, IOWA & Assoc.
By [Signature]

Under penalty of perjury, I declare that the foregoing is true and correct.

07-22-91 Date [Signature] Signature

Print Name		
Business Address		
City	State	Zip

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q Ellison

Borg-Warner Acceptance Corp.

v.

William G. Ellison

Bankruptcy Case No.

83-00312

Debtor

Plaintiff

SEP 25 1991

Adversary Proceeding No.

Defendant

84-0115C

BARBARA A. EVERLY, CLERK

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Darwin C. Kohl
East Side Office
4040 First Ave. NE
Cedar Rapids, Iowa 52406

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address	Room
Bankruptcy Court Room 800 The Center 425 Second Street SE Cedar Rapids, Iowa 52407	Date and Time August 29, 1991 at 9:00 a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:
[If not applicable, enter "None"]

or William G. Ellison,
Please bring with you any and all documents which reflect your representation of Waterhouse Auctioneers, the responsibility associated with that representation, any documents which reflect the authority to execute the Settlement and Release document, and any documents which reflect payment by William G. Ellison to Waterhouse Auctioneers, Borg-Warner Acceptance Corporation and or Shebetka.

Subpoena issued on the request of: [Name of Party]	Inquiries may be addressed to: [Attorney's name, address and phone]
Attorney R. Scott Rhinehart 310 Frances Building Sioux City, Iowa 51101 PLAINTIFF	R. Scott Rhinehart 310 Frances Building Sioux City, Iowa 51101



BARBARA A. EVERLY

Clerk of the Bankruptcy Court

Theresa M. Kula

By: U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

July 11, 1991

Date

In the Iowa District Court, for Linn County

Case Name BORG-WARNER vs ELLISON
 Case No. 83-00312
 Notice recd. this date 7/15/91

STATE OF IOWA }
 LINN COUNTY } SS

RETURN OF SERVICE:

	Type of Service Code
<input checked="" type="checkbox"/> Personal	1
<input type="checkbox"/> Dwelling/Substitute	2
<input type="checkbox"/> Hotel/Boarding/Rooming House	3
<input type="checkbox"/> Corporation/Association	4
<input type="checkbox"/> Official (State, County, City)	5
<input type="checkbox"/> Spouse away from residence	6
<input type="checkbox"/> Other	7
<input type="checkbox"/> Diligent Search (not served)	8

I certify that I (served) (~~attempted to serve~~) a copy of:

- ☐ Petition and Original Notice
☐ Modification/Application and Notice
☐ Order to Show Cause

- ☐ Order Filed _____
☐ Writ _____
☒ Other SUBPOENA

DARWIN C. KOHL *****	at 4040 1st AVE NE	on 7/19/91	HRS 1015	Type Code 1
(NAME)	(ADDRESS)	(DATE)		
	at	on		
	at	on		
	at	on		
	at	on		
	by serving	at		
(NAME)	(NAME)	(ADDRESS)		

_____ on _____, (a person residing therein who was then at least 18 years old) or (spouse away from residence). (Strike non-applicable part).

_____ by serving _____
 (COMPANY/GOVERNMENT UNIT NAME) (NAME)

_____ on _____, at _____
 its (TITLE) (DATE)

NOTES: (Diligent Search, etc.)

***** Refused to accept Subpoena, demanded Witness Fees. Subpoena was dropped on the Floor in Front of Him. in Premises 4040 1st AVENUE NE.

Fees:
 Service 15.00
 Mileage 5.67 (3 TRIPS)
 Copy .50
 Total 21.17

Dennis H. Blome, Sheriff, Linn County, Iowa

BY: William J. Moran
 WILLIAM J. MORAN #134 Deputy Sheriff

Fees ~~charged to~~ paid by Atty/Party: AUG 01 1991

Richard Rhinehart & Assoc.

NOTE: Copy of Original Notice, if served, must be attached to this form.

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q. Ellison

Bankruptcy Case No.

Debtor U.S. BANKRUPTCY COURT 83-00312
NORTHERN DISTRICT OF IOWA

Plaintiff SEP 25 1991

Adversary Proceeding No.

Borg-Warner Acceptance Corp.

v.

Defendant BARBARA A. EVERLY, CLERK 84-0115C

William G. Ellison

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Franklin York
500 Higley Building
P.O. Box 75062
Cedar Rapids, Iowa 52407

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 52407	Room
	Date and Time March 14, 1991 at 2:00 p.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:
[If not applicable, enter "None"]

Any and all documents concerning the settlement agreement between the parties (Borg-Warner, Waterhouse, Shebtka) and the assignment of the non dischargeable judgement in the case of Borg-Warner v. William G. Ellison.

Subpoena issued on the request of:
[Name of Party]

Attorney
R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

Inquiries may be addressed to:
[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
Ph. (712) 258-8706



March 6, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

Theresa M. Kula
By: U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

United States Bankruptcy Court

NORTHERN

IOWA

District of

In re

William G. Ellison
Margaret Q. Ellison

Debtor s

Plaintiff

Borg-Warner Acceptance Corp.

v.

Defendant

William G. Ellison

Bankruptcy Case No.

83-00312

Adversary Proceeding No.

84-0115C

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Ronald W. Wendt
American Federal Savings & Loan Bldg.
200 First Street S.W.
Cedar Rapids, Iowa 52404

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room
800 The Center
425 Second Street S.E.
Cedar Rapids, Iowa 52404

Room

Date and Time

March 14, 1991 at 2:00 p.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:
[If not applicable, enter "None"]

Any and all documents concerning the settlement agreement between the parties (Borg-Warner, Waterhouse, Shebetka) and the assignment of the non dischargeable judgement in the case of Borg-Warner v. William G. Ellison.

Subpoena issued on the request of: Attorney
[Name of Party] R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

Inquiries may be addressed to:
[Attorney's name, address and phone]

R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
Ph. (712) 258-8706



March 6, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

By:

Theresa M. Kula
U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, Iowa

CERTIFICATE OF SERVICE

I, DEPUTY DONALD WHARTON, certify that I am, and at all times during the service
(name)
of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of
this subpoena was made. I further certify that the service of this subpoena was made on 3-11-91
(date)
by delivering a copy of this subpoena, and tendering the attendance fees and mileage allowed by law, to
FRANKLIN YORK, a witness in this case, at:
(name)

500 HIGLEY BLDG
CEDAR RAPIDS IOWA

Under penalty of perjury, I declare that the foregoing is true and correct.

3-11-91

Date

DONALD WHARTON

Signature

Print Name		
DONALD WHARTON		
Business Address		
PO BOX 74740		
City	State	Zip
CEDAR RAPIDS	IOWA	

SERVICE	15.00
MILEAGE	1.00
TOTAL	16.00

Date MAR 19 1991
SHERIFF'S FEES PAID BY
Richard R. Rhinehart & Assoc.
SHERIFF, LINN COUNTY, IOWA
By W. Lang

In the Iowa District Court, for Linn County

Case Name BORG-WARNER ACCEPTANCE CORP. VS. ELLISON

Case No. 83-00312

Notice recd. this date 03-07-91

STATE OF IOWA }
LINN COUNTY } ss.

RETURN OF SERVICE:

<input checked="" type="checkbox"/> Personal	1
<input type="checkbox"/> Dwelling/Substitute	2
<input type="checkbox"/> Hotel/Boarding/Rooming House	3
<input type="checkbox"/> Corporation/Association	4
<input type="checkbox"/> Official (State, County, City)	5
<input type="checkbox"/> Spouse away from residence	6
<input type="checkbox"/> Other	7
<input type="checkbox"/> Diligent Search (not served)	8

**Type of
Service Code**

I certify that I (served) (~~attempted to serve~~) a copy of:

- ☐ Petition and Original Notice
- ☐ Modification/Application and Notice
- ☐ Order to Show Cause

- ☐ Order Filed
- ☐ Writ
- ☐ Other
- ☒ Subpoena

<u>RONALD WENDT</u> (NAME)	at <u>200 1st ST. SW. CR.</u> (ADDRESS)	on <u>03-07-91</u> (DATE)	Type Code <u>1</u>
_____	at _____	on _____	<input type="checkbox"/>
_____	at _____	on _____	<input type="checkbox"/>
_____	at _____	on _____	<input type="checkbox"/>
_____	at _____	on _____	<input type="checkbox"/>
_____	by serving _____	at _____	<input type="checkbox"/>
(NAME)	(NAME)	(ADDRESS)	

_____ on _____, (a person residing therein who was then at least 18 years old) or (spouse away from residence). (Strike non-applicable part).

_____ by serving _____
(COMPANY/GOVERNMENT UNIT NAME) (NAME)

_____ on _____, at _____
Its (TITLE) (DATE)

NOTES: (Diligent Search, etc.)

Fees: _____
Process 15.00
Mileage 1.00
Copy 50
Total 16.50

Dennis H. Blome, Sheriff, Linn County, Iowa

BY: R. HARRELSON
[Signature] Deputy Sheriff

Fees ~~charged to~~ paid by Atty/Party: MAR 19 1991

Richard B. Hinehart & Assoc.

NOTE: Copy of Original Notice, if served, must be attached to this form.

United States Bankruptcy Court

NORTHERN District of IOWA

In re

William G. Ellison
Margaret Q. Ellison

Borg-Warner Acceptance Corp.

v.

William G. Ellison

Debtor

Plaintiff

Defendant

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
Bankruptcy Case No.
83-00312

SEP 25 1991

BARBARA A. EVERLY, Clerk
Adversary Proceeding No.

84-0115C

SUBPOENA TO WITNESS IN AN ADVERSARY PROCEEDING

To: Marvin Waterhouse
RR1 (Manchester Livestock Auction)
P.O. Box 126
Manchester, Iowa 52057

RECEIVED
SHERIFF'S OFFICE
JELLYWARE COUNTY, IA
7:59/1125PM

YOU ARE COMMANDED to appear to testify in the above named adversary proceeding at the following place and time:

Address Bankruptcy Court Room 800 The Center 425 Second Street S.E. Cedar Rapids, Iowa 52407	Room
	Date and Time August 29, 1991 at 9:00 a.m.

YOU ARE COMMANDED TO BRING with you the following documents and objects:
[If not applicable, enter "None"]

Please bring with you copies of any and all correspondence, checks, receipts or other documentation which reflects communication surrounding the Satisfaction of Judgment, its filing, its preparation and any payment made in connection with the Satisfaction of Judgment.

Subpoena issued on the request of: [Name of Party] Attorney R. Scott Rhinehart 310 Frances Building Sioux City, Iowa 51101 PLAINTIFF	Inquiries may be addressed to: [Attorney's name, address and phone] R. Scott Rhinehart 310 Frances Bldg. Sioux City, Iowa 51101
---	---



July 10, 1991

Date

BARBARA A. EVERLY

Clerk of the Bankruptcy Court

Theresa M. Kula

By: U.S. BANKRUPTCY COURT
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

CERTIFICATE OF SERVICE

I, Tari Trapp, Civil Deputy, certify that I am, and at all times during the service
(name)
of this subpoena was, not less than 18 years of age and not a party to the matter concerning which service of
this subpoena was made. I further certify that the service of this subpoena was made on July 31, 1991
(date)
by delivering a copy of this subpoena, and tendering the attendance fees and mileage allowed by law, to
Marvin Waterhouse, a witness in this case, at: Manchester, Iowa/Delaware
(name) County

Under penalty of perjury, I declare that the foregoing is true and correct.

July 31, 1991 Tari Trapp Signature Civil Deputy
Date

Print Name		
Delaware County Sheriff Dept.		
Business Address		
Box 116		
City	State	Zip
Manchester	IA	52057

FEEs: Service \$15.00
Mileage 1.00
TOTAL \$16.00

8/8/91 #12138

PLEASE RETURN THIS CARD WITH PAYMENT ***

Borg Warner Corp
vs William H. Ellison

Sheriff of Johnson County
P.O. Box 2540
Iowa City, Iowa 52244

83-00312

March 19 91

O.N. _____; EXEC _____; NOTICE X; WRIT _____; SUBP _____; ORDER _____
Date(s) Served 3/23/91 FEES \$ 18.48
Unable to Locate _____ \$ _____
Recalled _____ \$ _____
Negative Results on Exec _____ \$ _____
Detail: _____

Papers will be returned to clerk or plaintiff
upon receipt of payment

W. H. P. Kristiansen Deputy Sheriff

From:

OFFICE OF SHERIFF OF DELAWARE COUNTY
P.O. Box 116
Manchester, Iowa 52057

To: R. Scott Rhinehart Attorneys-at-Law

Case: Borg-Warner vs: Waterhouse

Acceptance Corporation
Your service in the above case was made July 26/91, 19 91
and will be returned upon receipt of fees.

Fees: Service \$ 15.00

CK # 12139
8291

Copy _____
Mileage 2.00
Total \$ 17.00

Ronald Wilhelm SHERIFF

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTOR

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiffs,

vs.

WILLIAM G. ELLISON,

Defendant.

*

*

*

*

*

*

CHAPTER 11 BANKRUPTCY
NO. 83-00312
ADVERSARY NO. 84-0155C

NOTICE OF HEARING

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

SEP 25 1991

* * * * *

BARBARA A. EVERLY, CLERK

To: William G. Ellison, defendant
RR 2, Box 45K
Solon, Iowa 52333

You are hereby notified that the attached Bill of Costs
in the sum of \$193.13 is on file with the clerk of this
Court and the allowance of same will come on for on the 4th
day of October 4, 1991, at 11:00 before the Honorable
Michael Malloy, Judge or to such Judge to whom this matter
may be assigned for hearing.

RICHARD RHINEHART & ASSOCIATES

By R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

ATTORNEY FOR PLAINTIFF

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiffs,

vs.

WILLIAM G. ELLISON,

Defendant.

* CHAPTER 11 BANKRUPTCY
* NO. 83-00312
* ADVERSARY NO. 84-0155C

*
* AFFIDAVIT OF MAILING
*

*

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

SEP 25 1991

BARBARA A. EVERETT, CLERK

* * * * *

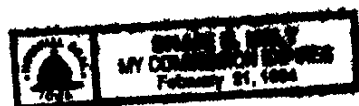
STATE OF IOWA)
:SS
COUNTY OF WOODBURY)


The undersigned, being first duly sworn, states that on the 23rd day of September, 1991, he personally mailed to the following a true copy of the attached Bill of Costs, ^{and Notice of Hearing} being mailed by ordinary mail in a sealed envelope with proper postage thereon, addressed to the said person listed below, at his last-known post office address by depositing same on the date shown herein in a United States Post Office mail receptacle, to wit:

William G. Ellison
RR 2, P.O. Box 45K
Solon, Iowa 52333


R. Scott Rhinehart

Subscribed and sworn to before me by the said R. Scott Rhinehart on this 23rd day of September, 1991.




Notary Public

undersigned, a notary public in and for the aforesaid county, personally appeared R. Scott Rhinehart, duly authorized representative of Borg-Warner Acceptance Corporation, the judgment creditor herein, to me known to be the person who signed the above satisfaction of judgment and acknowledged that he executed the same as his voluntary act and deed.



Christine A. Spears
Notary Public in and for
Woodbury County, Iowa

WATERHOUSE AUCTIONEERS

BY _____
W. Wesley Waterhouse

STATE OF IOWA)
) ss
COUNTY OF LINN)

On this ____ day of _____, 1992, before the undersigned, a notary public in and for the aforesaid county, personally appeared W. Wesley Waterhouse, duly authorized representative of Waterhouse Auctioneers, the judgment creditor herein, to me known to be the person who signed the above satisfaction of judgment and acknowledged that he executed the same as his voluntary act and deed.

Notary Public in and for
Linn County, Iowa

ROBERT SHEBETKA, SHIRLEEN BROWN, f/k/a
SHIRLEEN SHEBETKA, ELY TRACTOR &
EQUIPMENT CO., INC.

BY Ronald W. Wendt
Ronald W. Wendt
Nazette, Hendrickson, Marner & Govd
200 First Street, Southwest
Cedar Rapids, Iowa 52404

ATTORNEY FOR INTERVENORS

STATE OF IOWA)
) ss
COUNTY OF LINN)

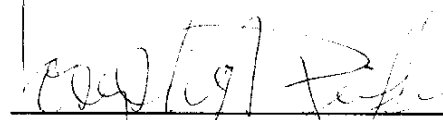
On this 1st day of October, 1992, before the undersigned, a notary public in and for the aforesaid county, personally appeared Ronald W. Wendt duly authorized representative of Robert Shebetka, Shirleen Brown f/k/a Shirleen Shebetka, Ely Tractor & Equipment Co., Inc., the judgment creditor herein, to me known to be the person who signed the above satisfaction of judgment and acknowledged that he executed the same as his voluntary act and deed.



Mary Anne Cassis
Notary Public in and for
Linn County, Iowa

STATE OF IOWA)
) ss
COUNTY OF DELAWARE)

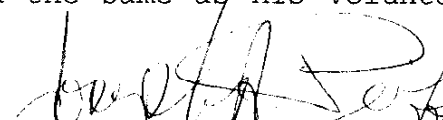
On this 28 day of September, 1992, before the undersigned, a notary public in and fore the aforesaid county, personally appeared W. Wesley Waterhouse, duly authorized representative of Waterhouse Auctioneers, the judgment creditor herein, to me known to be the person who signed the above satisfaction of judgment and acknowledged that he executed the same as his voluntary act and deed.



Notary Public in and for the
State of Iowa

STATE OF IOWA)
) ss
COUNTY OF DELAWARE)

On this 18 day of September, 1992, before the undersigned, a notary public in and fore the aforesaid county, personally appeared Marvin Waterhouse, duly authorized representative of Waterhouse Auctioneers, the judgment creditor herein, to me known to be the person who signed the above satisfaction of judgment and acknowledged that he executed the same as his voluntary act and deed.



Notary Public in and for the
State of Iowa

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

AUG 15 1991

IN RE:

BARBARA A. EVERLY, CLERK

WILLIAM G. ELLISON and	)	Chapter 11
MARGARET Q. ELLISON,)	
	)	Bankruptcy No. 83-00312
Debtors.)	

BORG-WARNER ACCEPTANCE CORP.,)	
)	
Plaintiff,	)	Adversary No. 84-0115C
)	
vs.)	
)	
WILLIAM G. ELLISON,)	
)	
Defendant.)	

ORDER DENYING MOTION FOR SUMMARY JUDGMENT

Borg-Warner Acceptance Corp. (BORG-WARNER) has filed motion for summary judgment. It alleges service upon the defendant, William G. Ellison, of Request for Admissions. Service was accomplished June 20, 1991. Pursuant to Fed.R.Civ.P. 36(a) and 6(e), Ellison had to and including July 23, 1991 to answer or object to the Request for Admissions. Borg-Warner alleges that no answer or objections were filed and therefore the matters requested are deemed admitted. Based on the admissions, Borg-Warner asserts there are no disputed issues of material fact and that it is entitled to the relief requested as a matter of law.

The motion for summary judgment was filed with the court on August 13, 1991 and was served upon the opposing party on August 13, 1991. Movant has failed to accompany the motion

with any brief on legal issues, nor has it otherwise shown why it is entitled to judgment as a matter of law.

Trial on this matter having been scheduled for August 29, 1991, the court finds that there is insufficient time to hear the motion and still provide opposing parties reasonable time to resist or provide the court time to consider the merits of the motion, once heard. The motion having been filed approximately 16 days prior to trial,

IT IS ORDERED that the motion for summary judgment filed by Borg-Warner Acceptance Corp. is denied.

SO ORDERED ON THIS 15th DAY OF AUGUST, 1991.



William L. Edmonds, Bankruptcy Judge

I certify that on 8-15-91 copies of this order were served by U. S. mail on: Wythe Willey, Joseph Peiffer, William G. Ellison, Scott Rhinehart, U. S. Trustee. *LS*

AUG 19 1991

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

GENERAL & EVERLY, CLEP!

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS

BORG-WARNER ACCEPTANCE
CORPORATION,

✱

CHAPTER 11 BANKRUPTCY

NO. 83-00312

*

ADVERSARY NO. 84-0115C

Plaintiffs,

*

VS.

TRIAL BRIEF

*

WILLIAM G. ELLISON,

*

Defendant.

*

* * * * *

I. INTRODUCTION

Plaintiff, Borg-Warner Acceptance Corporation is seeking to set aside the Satisfaction of Judgment given to William G. Ellison by Waterhouse Auctioneers, filed November 13, 1990.

This Satisfaction of Judgment was given in violation of a Release and Settlement Agreement entered into among Marvin Waterhouse and Wesley Waterhouse d/b/a Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka and Borg-Warner Acceptance Corporation. This Release and Settlement Agreement was signed by Franklin York for Marvin Waterhouse and Wesley Waterhouse, d/b/a Waterhouse Auctioneers, Ronald Wendt for Eli Tractor and Equipment Company, Inc., and R. Scott Rhinehart for Borg-Warner Acceptance Corporation. A copy of this Agreement is Trial Exhibit "2".

Recorded: Vol I
page 144

This Release and Settlement Agreement provides that Borg-Warner Acceptance Corporation has a non-dischargeable judgment against Debtor, William G. Ellison in the United States Bankruptcy Court for the Northern District of Iowa, Bankruptcy No. 83-00312 in the sum of \$36,824.00 with interest at 10% from March 19, 1984 and 15% from the date of judgment, which judgment is dated November 21, 1984 along with an award of attorney fees in the sum of \$2,500.00.

This Release and Settlement Agreement states at Paragraph 4 that Marvin Waterhouse and Wesley Waterhouse, agree to accept an Assignment of Judgment in the full amount and to pursue collection against William G. Ellison in and after his pending bankruptcy action. Marvin Waterhouse and Wesley Waterhouse, agree that any sums that they are able to recover from William G. Ellison will be divided as follows:

1. The attorneys fees related to the collection efforts will be paid first.

2. The remaining portion of the sums received will be divided one-third to Borg-Warner Acceptance Corporation, one-third to Defendants, Waterhouse and one-third to Defendants, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka.

This Release and Settlement Agreement further states that if Waterhouse fails to pursue William G. Ellison for such sums, it is understood that Waterhouse, will authorize the attorneys for Borg-Warner Acceptance Corporation to institute collection efforts based upon that judgment or

deliver an assignment of that judgment back to Borg-Warner Acceptance Corporation.

After December, 1985, Waterhouse failed to institute collection efforts based upon the Judgment against William G. Ellison. Waterhouse failed to collect any sums from William G. Ellison and in a letter dated April 23, 1990, this letter is Trial Exhibit "3", Marvin Waterhouse directed R. Scott Rhinehart, attorney for Borg-Warner Acceptance Corporation, to pursue collection of debts owed to Waterhouse, Borg-Warner Acceptance Corporation and the Shebetka's by William G. Ellison.

Borg-Warner Acceptance Corporation did institute collection efforts after receiving the April 23, 1990 letter from Marvin Waterhouse.

Waterhouse Auctioneers then executed a Satisfaction of Judgment in favor of William G. Ellison, this Satisfaction is Trial Exhibit "5". No consideration was given for the Satisfaction of Judgment and this Satisfaction of Judgment was filed without the knowledge or consent of Borg-Warner Acceptance Corporation.

Plaintiff, Borg-Warner Acceptance Corporation, as an interested party to this action, should have been informed as to all efforts regarding collection against William G. Ellison and the discharge of William G. Ellison. The Satisfaction of Judgment was executed and filed in violation of the Release and Settlement Agreement between Borg-Warner Acceptance Corporation, Waterhouse Auctioneers, Eli Tractor

and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka.

Waterhouse Auctioneers had full and complete knowledge of the Release and Settlement Agreement, consented to its terms and thus should be bound by its terms. The Satisfaction of Judgment given to William G. Ellison by Waterhouse Auctioneers was given without the knowledge or consent of Borg-Warner Acceptance Corporation and without consideration. The Satisfaction of Judgment therefore, must be set aside.

II. ARGUMENT

A. THE RELEASE AND SETTLEMENT AGREEMENT ENTERED INTO IN DECEMBER, 1984 IS BINDING UPON ALL PARTIES THERETO.

The Release and Settlement Agreement is a written document signed by each party's attorney. R. Scott Rhinehart signed in his capacity as attorney for Borg Warner Acceptance Corporation, Ronald Wendt signed in his capacity as attorney for Eli Tractor and Equipment Company, Inc., and Franklin York signed in his capacity as attorney for Marvin Waterhouse and Wesley Waterhouse, d/b/a Waterhouse Auctioneers.

Waterhouse Auctioneers claim that Franklin York acted without the authority or knowledge of Marvin Waterhouse or Wesley Waterhouse in signing this agreement and thus they should not be bound by the agreement. Marvin Waterhouse and Wesley Waterhouse did however have knowledge of this agreement. Franklin York kept them regularly informed as to

the events occurring up to and after the Release and Settlement Agreement was signed.

In a letter to the Honorable James D. Hodges, Jr. from Franklin York dated December 14, 1984, Mr. York declares that the parties in the Borg Warner Acceptance Corporation v. Marvin Waterhouse et al, have reached a settlement agreement. A copy of this letter was sent to Waterhouse Auctioneers.

In a letter to R. Scott Rhinehart from Franklin York, dated December 31, 1984, Mr. York states that a check in the amount of \$4,000.00 is enclosed in partial payment of the settlement agreed to in the Borg Warner Acceptance Corporation v. Waterhouse, et al matter.

In a letter to R. Scott Rhinehart from Franklin York, dated January 2, 1985, Mr. York states that the settlement documents have been fully executed and transmitted to Mr. Wendt for filing. A copy of this letter was sent to Waterhouse Auctioneers.

In a letter to Ronald Wendt from Franklin York, dated January 2, 1985, Mr. York states that a fully executed Stipulation for Dismissal, Release and Settlement Agreement and Judgment are enclosed and ready for filing. A copy of this letter was sent to Waterhouse Auctioneers.

In a letter to Marvin Waterhouse from Franklin York dated December 16, 1987, Mr. York states that pursuant to the agreement with Borg Warner Acceptance Corporation and the Shebetkas, garnished funds are to applied first to the

costs and then divided equally among the three parties. Copies of the above described letters are Trial Exhibits number "7", "8", "10", "11" and "15" respectively.

It is clear from these letters that Marvin Waterhouse and Wesley Waterhouse were informed as to the progress of the settlement, that an agreement had been reached among the parties and that this Agreement was signed and filed.

An attorney-client relationship existed between Franklin York and Marvin Waterhouse and Wesley Waterhouse. Marvin Waterhouse and Wesley Waterhouse knew as far back as 1984 that Franklin York was acting in the capacity of attorney for Waterhouse Auctioneers.

In a letter to R. Scott Rhinehart from Franklin York, dated February 8, 1984, Mr. York states, "We represent Waterhouse Auctioneers." A copy of this letter was sent to Marvin Waterhouse. A copy of this letter is Trial Exhibit "6".

This letter was written over 7 years ago and not until Waterhouse Auctioneer desired to be released from this agreement did they claim that Franklin York did not have the authority to act in the capacity of Attorney for Waterhouse Auctioneer. Prompt complaint must be made if one party does not wish to be represented by counsel retained by co-parties. Galbreth Mortgage Co. v. Key-Heights-Lowell, Inc., 255 N.W.2d 742 (Mich. App. 1977).

These letters also show the on-going relationship between Waterhouse Auctioneers and Franklin York as their

attorney from 1984 until his withdrawal from the case in September, 1989. Again, neither Marvin Waterhouse nor Wesley Waterhouse ever indicated to the parties to this action that Franklin York was not acting within his authority and lacked the capacity to sign the Release and Settlement Agreement.

Because Franklin York was acting in his capacity as attorney for Waterhouse Auctioneers, the knowledge gained by him and the terms of the agreement are imputed to Marvin Waterhouse and Wesley Waterhouse. Ordinarily, an attorney's knowledge is imputed to his client. Wauwatosa Realty Company v. Bishop, 94 N.W.2d 562, 565 (Wis, 1959).

Notice to an agent is notice to his principal and this rule is applicable to attorney and client. Minneapolis, St. Paul S.S.M.R. Co. v. St. Paul Mercury Indemnity Co., 129 N.W. 2d 777, 287 (Minn. 1964). See also Kastle v. Clemmons, 46 N.W.2d 450, 451 (Mich. 1951), and Reinecke v. Sheehy, 209 N.W.2d 460, 466 (Mich. 1973).

Because notice to an attorney is notice to a client and knowledge of an attorney is knowledge of or imputed to, his client, the information gained by Franklin York in negotiating the Release and Settlement Agreement and the fact that a Release and Settlement Agreement was entered into by the parties is imputed to Waterhouse Auctioneers. Therefore, as neither Marvin Waterhouse or Wesley Waterhouse objected to the terms of the Agreement and never voiced any objections until 1991 regarding a 1984 Agreement, they must

be bound by its terms.

Generally, a client is bound by the acts of his attorney within the scope of authority. State v. LaMar, 224 N.W. 2d 252, 254 (Iowa 1974). In State v. Benson, 72 N.W. 2d 438, 441 (Iowa 1955), the Court held that the Defendant having employed as his counsel one authorized to practice in Court, is ordinarily bound by any course of action that is followed by attorney thus selected by him.

Not only is Franklin York's knowledge imputed to Waterhouse Auctioneers but there is evidence that Marvin Waterhouse and Wesley Waterhouse knew completely about the Release and Settlement Agreement and consented to its terms.

In a letter from Marvin Waterhouse to R. Scott Rhinehart dated April 23, 1990, Mr. Waterhouse authorizes Mr. Rhinehart to pursue collection of debts owed to Waterhouse Auctioneers, Borg-Warner, and Mr. Shebetka by Bill Ellison. This letter also states that it should be agreed that any sums collected by Borg-Warner Acceptance Corporation would be divided equally among Waterhouse Auctioneers, Shebetkas and Borg-Warner. A copy of this letter is Trial Exhibit "3". The language of this letter falls directly in line with what was agreed to in the Release and Settlement Agreement. Furthermore, if Waterhouse Auctioneers truly did not know about the Release and Settlement Agreement and consent to its terms, why did they feel the need to authorize Borg-Warner Acceptance Corporation to pursue collection of debts.

In a letter from Marvin Waterhouse to R. Scott Rhinehart dated June 15, 1990, Mr. Waterhouse informs Mr. Rhinehart that Waterhouse Auctioneers is rescinding, revoking and making null and void their authorization to pursue collection of debts owed to Waterhouse Auctioneers, Borg-Warner, and Shebetka. A copy of this letter is Trial Exhibit "4".

Again, if Waterhouse Auctioneers truly felt that the assignment was theirs entirely to do or to collect as they pleased, why was it necessary to first authorize collection against Mr. Ellison and then rescind this authorization.

B. BECAUSE ALL INTERESTED PARTIES WERE NOT INFORMED AS TO THE TERMS OF THE SATISFACTION OF JUDGMENT AND BECAUSE NO CONSIDERATION WAS GIVEN FOR SUCH JUDGMENT, THE SATISFACTION OF JUDGMENT MUST BE SET ASIDE.

The Release and Settlement Agreement was entered into with the full knowledge of Waterhouse Auctioneers, Borg-Warner Acceptance Corporation, and Eli Tractor and Equipment Company. Because this was a binding agreement upon all parties, all parties should have been informed as to any collection efforts against Mr. Ellison as well as any indication that a Satisfaction of Judgment would be entered in his favor.

Borg-Warner Acceptance Corporation was never informed as to the Satisfaction of Judgment until after it was filed. Borg-Warner Acceptance Corporation never had the chance to object to the Satisfaction of Judgment being

entered in favor of Mr. Ellison.

A Judgment upon a type of obligation not falling within the statute was entered without any authority whatsoever and was void. A.I.C. Financial Corp. v. Commercial Units, 245 N.W. 2d 923, 926 (Wis. 1976). See also Chippawa Valley Securities Company v. Herbst, 278 N.W. 872, 875 (Wis. 1938). Park Hotel Company v. Eckstein-Miller Auto Company, 193 N.W. 998 (Wis. 1923).

Where judgment creditors attorney executed Satisfaction of Judgment for less than amount thereof without judgment creditor's consent, the judgment was reinstated. Business Service Collection v. Yegen, 269 N.W. 46, (N.D. 1936). Therefore, as proper consent was not given by Borg-Warner Acceptance Corporation, the Satisfaction of Judgment given in favor of William G. Ellison must be set aside.

Not only was Borg-Warner not informed of the Satisfaction of Judgment, but this Judgment was given without consideration. To be valid, a release of a Judgment must be supported by valuable consideration. Broyles v. Iowa Department of Social Services, 305 N.W. 2d 718, 723 (Iowa 1981), 49 C.J.S. Judgments Section 565. See also Warman v. Hat Creek Ranch Co., 207 N.W. 532, 533 (Iowa 1926).

Defendant's attorney, Joseph Peiffer, admitted to Bankruptcy Judge Melloy during a telephonic conference with counsel on April 3, 1991 that William G. Ellison gave no consideration to Waterhouse Auctioneers for the Satisfaction

of Judgment filed in this matter. Attorney Wythe Wiley, also admitted to Bankruptcy Judge Melloy during the same telephonic conference with counsel on April 3, 1991, that William G. Ellison gave no consideration to Waterhouse Auctioneers for the Satisfaction of Judgment. Without consideration, the Satisfaction of Judgment cannot stand.

III. CONCLUSION.

Waterhouse Auctioneers entered into a binding agreement with Borg Warner Acceptance Corporation and Eli Tractor and Equipment Company. The terms of this agreement were such that all parties were to receive one-third of the collections received from Ellison. As all the parties were interested, each party should have been informed as to any Satisfaction of Judgment being given to William G. Ellison.

Waterhouse Auctioneers claims the defense that they were unaware and had not given their consent to the terms of the Release and Settlement Agreement. This simply is not so. Franklin York kept them informed as is shown by the letter copies sent to Waterhouse Auctioneers.

York was also in the thick of the settlement negotiations. Case law dictates that what York, as attorney for Waterhouse Auctioneers, knew and consented to, binds Marvin Waterhouse and Wesley Waterhouse. His knowledge and actions are imputed to Waterhouse Auctioneers.

We are not here to represent Franklin York. Even if Franklin York did exceed his authority, that must be determined in a subsequent proceeding. This is not

supported by any evidence and does not, in any event, excuse Waterhouse Auctioneers from the terms of the Release and Settlement Agreement.

Finally, no consideration was given for this Satisfaction of Judgment. Waterhouse Auctioneer's current attorney, Joseph Pieffer, and Attorney Wythe Wiley both admitted to Judge Melloy that no consideration was given for this Satisfaction of Judgment. It is well settled that without new and valuable consideration, the Satisfaction of Judgment is invalid.

WHEREFORE, Plaintiff, Borg-Warner Acceptance Corporation, respectfully requests that the Satisfaction of Judgment entered in favor of William G. Ellison be set aside.

RICHARD RHINEHART & ASSOCIATES

By R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101

ATTORNEY FOR PLAINTIFF

UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT WAS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY DEPOSITING A COPY THEREOF IN THE U. S. MAIL, POSTAGE PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DISCLOSED ON THE PLEADINGS, ON August 19, 1991.

Copy handed to
filing attorney
on date filed GM

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

AUG 20 1991

BARBARA A. EVERLY, CLERK

IN RE:

WILLIAM G. ELLISON and
MARGARET O. ELLISON,

Debtors.

)
)
)
)

Chapter 11

Bankruptcy No. 83-00312C

BORG-WARNER ACCEPTANCE CORP.,

Plaintiff,

)
)
)

Adversary No. 84-0115C

vs.

)

WILLIAM G. ELLISON,

Defendant.


)
)
)

ORDER CHANGING THE STARTING TIME OF THE TRIAL
ON AUGUST 29, 1991

In light of airline schedules from Sioux City to Cedar
Rapids,

IT IS ORDERED that the trial scheduled for August 29, 1991
shall begin at 10:00 A.M. and not 9:00 A.M., as originally
scheduled.

SO ORDERED ON THIS 20th DAY OF AUGUST, 1991.


William L. Edmonds, Bankruptcy Judge

I certify that on 8-20-91 copies of this order were served by
U. S. mail on Joseph A. Peiffer, William Ellison, Scott Rhine-
hart, Wythe Willey, U. S. Trustee. *JS*

Recorded: Vol I
Page 114

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

AUG 20 1991

IN RE:

BARBARA A. EVERLY, CLERK


WILLIAM G. ELLISON and	)	Chapter 11
MARGARET O. ELLISON,)	
	)	Bankruptcy No. 83-00312C
Debtors.)	

BORG-WARNER ACCEPTANCE CORP.,)	
)	
Plaintiff,	)	Adversary No. 84-0115C
)	
vs.)	
)	
WILLIAM G. ELLISON,)	
)	
Defendant.)	

ORDER SETTING DEADLINE FOR OBJECTION
TO PARTICIPATION OF WATERHOUSE AUCTIONEERS

From the outset of the Motion to Set Aside Satisfaction of Judgment, Joseph Peiffer, attorney at law, has represented Waterhouse Auctioneers, the assignee of judgment. If either Borg-Warner Acceptance Corp. or William G. Ellison has an objection to the participation of Waterhouse Auctioneers at trial as litigants, they must raise that objection by filing an objection with the court by no later than August 26, 1991. Any objection filed will be taken up at the time of the trial on August 29, 1991.

SO ORDERED ON THIS 20 DAY OF AUGUST, 1991.


William L. Edmonds, Bankruptcy Judge

I certify that on 8-20-91 copies of this order were served by U. S. mail on Joseph A. Peiffer, William Ellison, Scott Rhinehart, Wythe Willey, U. S. Trustee. *LS*

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS,

BORG-WARNER ACCEPTANCE,
CORPORATION,

Plaintiffs,

VS.

WILLIAM G. ELLISON,

Defendant.

CHAPTER 11 BANKRUPTCY
NO. 83-00312
ADVERSARY NO. 84-0115C

OBJECTION
BY PLAINTIFF

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

AUG 23 1991

BARBARA A. EVERLY, CLERK

* * * * *

COMES NOW Plaintiff and objects to Waterhouse Auctioneers acting as litigants if Waterhouse Auctioneers are doing so to prevent the testimony of Franklin York, former attorney. Plaintiffs are concerned that Waterhouse, as a litigant, will claim that York was negligent in his activities as counsel for Waterhouse, in his actions or otherwise and at the same time prevent York from testifying truthfully as to his activities and authorization by virtue of some claimed privilege.

If the Court is inclined to allow York to testify as to his activities, because the privilege has been waived by Waterhouse in their Responses to Request for Admissions in this regard, this objection is withdrawn.

Copy handed to
attorney
date filed *gm*

RICHARD RHINEHART & ASSOCIATES

By:

R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101
(712) 258-8706
ATTORNEY FOR PLAINTIFF

CERTIFIED TRUE AND CORRECT COPY OF THE FOREGOING INSTRUMENT
WAS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY
DEPOSITING A COPY THEREOF IN THE U. S. MAIL, POSTAGE
PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS
OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DIS-
CLOSED ON THE PLEADINGS, ON August 23, 1991,
Shari Bell

Recorded: 1101 7
Page 144

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

AUG 27 1991

IN RE:)	
)	
WILLIAM G. ELLISON and	)	Chapter 11
MARGARET Q. ELLISON,)	
	)	Bankruptcy No.
Debtors.	)	L-83-00312
<hr/>		
BORG-WARNER ACCEPTANCE)	
CORPORATION,)	
	)	Adversary No.
Plaintiff,	)	X-84-0115C
vs.)	
)	
WILLIAM G. ELLISON)	
)	
Defendant.)	

WITHDRAWAL OF APPEARANCE AND REQUEST NOT TO BE TREATED AS A PARTY

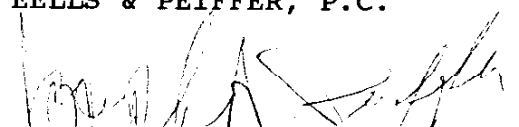
COMES NOW Waterhouse Auctioneers, by and through its undersigned attorney, and hereby states to the Court as follows:

1. The undersigned attorney has been directed to withdraw as counsel and further states that Waterhouse Auctioneers does not wish to be regarded as a party in the trial currently set to begin on August 29, 1991, at 10:00 o'clock a.m. in the Bankruptcy Court for the Northern District of Iowa.

WHEREFORE, the undersigned counsel will not be appearing on behalf of Waterhouse Auctioneers and Waterhouse Auctioneers respectfully requests that this Court deem it not to be a party to this action as it will not have counsel present and Marvin Waterhouse will appear at the action pursuant to the subpoena previously forwarded to him.

DATED this 21 day of August, 1991.

EELLS & PEIFFER, P.C.


Joseph A. Peiffer
465 Brenton Financial Center
150 First Avenue NE
Cedar Rapids, Iowa 52401
Telephone: (319) 363-1641

ATTORNEY FOR WATERHOUSE
AUCTIONEERS

Copies to:

Mr. R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101

Mr. Bill Ellison
Rural Route #2, Box 45K
Solon, Iowa 52333

Mr. Wesley Waterhouse
P.O. Box 171
Central City, Iowa 52214

Mr. Marvin Waterhouse
P.O. Box 126
Manchester, Iowa 52057

United States Bankruptcy Court
320 6th Street
1st Floor, U.S. Courthouse
Sioux City, Iowa 51101

CERTIFICATE OF SERVICE
I, the undersigned, hereby certifies under per-
jury that a copy of this document
was served upon, mailed, or delivered to coun-
sel, debtor, and other parties of inter-
est in compliance with Bankruptcy Rules 70-
14 on the 21 day of August, 1991
Deborah A. Smith

Copy handed to
attorney
on date filed

RH

Recorded: Vol I
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AUG 27 1991

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:)	
)	
WILLIAM G. ELLISON and	)	Chapter 11
MARGARET Q. ELLISON,)	
	)	Bankruptcy No.
Debtors.	)	L-83-00312
)	
<hr/> BORG-WARNER ACCEPTANCE)	
CORPORATION,)	
)	
Plaintiff,	)	Adversary No.
vs.	)	X-84-0115C
)	
WILLIAM G. ELLISON)	
)	
Defendant.)	

BARBARA A. EVERLY, CLERK

WITHDRAWAL OF RESISTANCE TO MOTION TO SET ASIDE
SATISFACTION OF JUDGMENT

COMES NOW Waterhouse Auctioneers, by and through its undersigned counsel, and hereby withdraws its Resistance to Borg-Warner's Motion to Set Aside Satisfaction of Judgment which was previously filed herein stating to the Court the following:


1. Waterhouse Auctioneers previously filed said Resistance on the 6th day of February, 1991.

2. After considerable thought Waterhouse Auctioneers hereby states to the Court that it does not desire to resist the action to set aside the satisfaction of judgment.

3. Waterhouse Auctioneers hereby states that it no longer resists Borg-Warner's actions to set aside the satisfaction of judgment.

DATED this 27 day of August, 1991.

EELLS & PEIFFER, P.C.


Joseph A. Peiffer
465 Brenton Financial Center
150 First Avenue NE
Cedar Rapids, Iowa 52401
Telephone: (319) 363-1641

ATTORNEY FOR WATERHOUSE
AUCTIONEERS

Copies to:

Mr. R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101

Mr. Bill Ellison
Rural Route #2, Box 45K
Solon, Iowa 52333

Mr. Wesley Waterhouse
P.O. Box 171
Central City, Iowa 52214

Mr. Marvin Waterhouse
P.O. Box 126
Manchester, Iowa 52057

United States Bankruptcy Court
320 6th Street
1st Floor, U.S. Courthouse
Sioux City, Iowa 51101

I, Deborah A. Fink, hereby certifies under penalty of perjury that a copy of this document was served upon, mailed, or delivered to counsel of record, debtor, and other parties of interest in compliance with Bankruptcy Rules 7004 and 9014 on the 27 day of August, 1991.

Recorded to
Deborah A. Fink
RN

Recorded: Vol I
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UNITED STATES BANKRUPTCY COURT - NORTHERN DISTRICT OF IOWA
PROCEEDING MEMO

Kent
Eva

ATF: 8/29/91 Case No. 83-00312 Chapter 11 Adv. No. 84-0115C

F- BORG-WARNER ACCEPT. CORP. VS ELLISON CONTESTED NO. _____

APPEARANCES: For Plaintiff/Debtor Scott Rhinehart
or Defendant/Movant/Creditor William Ellison, Jr. &c

S. TRUSTEE _____ CASE TRUSTEE _____

NATURE OF PROCEEDING:

 Motion to Use Cash Collateral Objection to Exemptions/Lien Avoidance

Disclosure Statement ^{FILED} U.S. BANKRUPTCY COURT _____ Pretrial/Scheduling Conference

Confirmation of Plan _____ Dischargeability/Discharge Complaint

Motion to Dismiss

NOV 29 1991

___ Objection to Final Report/Claims Repor

Status Conference BARBARA A. EVERLY, CLERK Motion to Assume/Reject

XX Other TRIAL Other _____

OUTCOME:

Settled: Settlement documents to be submitted by _____
within _____ days or matter will be dismissed pursuant to L.R. 13(D).

Other _____

ORDERS:

Taken Under Advisement

Briefs Due _____

X Oral findings & conclusions stated
Judgment Entered by the Court pursuant to F.R.B.P. 9021:

Motion to set aside Satisfaction of judgment is granted.

Satisfaction of judgment filed on November 13, 1990 is SET ASIDE.

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Page 144

Costs taxed to Defendant Swison

Copy to:
Scott Rhinehart,
William Ellison,
Joe Peiffer
U.S. Trustee & Wythe Willey
this August 3, 1991

IT IS SO ORDERED

Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

MAR 11 1991

BARBARA A. EVERLY, CLERK

IN RE:

WILLIAM G. ELLISON and
MARGARET Q. ELLISON,

Debtors,

BORG-WARNER ACCEPTANCE
CORPORATION,
Plaintiff,

vs.

WILLIAM G. ELLISON,
Defendant.

*

Chapter 11

*

Bankruptcy No.
83-00312

*

*

Adversary No.
84-0115C

*

AFFIDAVIT OF MAILING

*

*

* * * * *

STATE OF IOWA)
 :SS
COUNTY OF WOODBURY)

The undersigned, being first duly sworn, states that on the 7th day of March, 1991, he personally mailed to the following persons a true copy of the attached Motion To Set Aside Satisfaction of Judgment, being mailed by certified mail in a sealed envelope with proper postage thereon, addressed to the said persons listed below, at their last-known post office address by depositing same on the date shown herein in a United States Post Office mail receptacle, as shown by the attached return receipts, to wit:

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William G. Ellison
R.R. 1
Solon, Iowa 52333



R. Scott Rhinehart

Subscribed and sworn to before me by the said R. Scott
Rhinehart on this 7th day of March, 1991.



Notary Public in and for said
County and State



FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

JAN 25 1991

BARBARA A. EVERLY, CLERK

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

WILLIAM G. ELLISON	*	CHAPTER 11
MARGARET Q. ELLISON	*	
	*	BANKRUPTCY
BORG-WARNER ACCEPTANCE	*	
CORPORATION,	*	NO. 83-00312
Plaintiff,	*	MOTION TO SET ASIDE
	*	SATISFACTION OF JUDGMENT
vs.	*	
WILLIAM G. ELLISON,	*	
Defendant,	*	
* * * * *		

COMES NOW Plaintiff, Borg-Warner Acceptance Corporation and moves the Court to set aside the Satisfaction of Judgment filed with this Court on November 13, 1990. In support thereof the Plaintiff states as follows:

1. On November 21, 1984 a Judgment was rendered against Defendant William G. Ellison.

2. This Judgment was assigned to Waterhouse Auctioneers and their attorney based on an agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

3. This agreement involved a \$12,000.00 payment to Borg-Warner Acceptance Corporation by Waterhouse Auctioneers and a promise to pursue collection against William G. Ellison with the proceeds of such collection to be paid as

follows:

1. Attorneys fees relating to collection with the balance divided.

2. 1/3 Borg-Warner Acceptance Corporation.

3. 1/3 Waterhouse Auctioneers.

4. 1/3 Sebetka.

4. Despite requests and demands for collection efforts by Plaintiff, Waterhouse Auctioneers failed to pursue and make collection against William G. Ellison.

5. In 1989 and 1990 Borg-Warner made efforts to prompt Waterhouse Auctioneers to comply with the settlement agreement. On the 23rd day of April 1990 Waterhouse Auctioneers authorized Borg-Warner Acceptance corporation and its attorneys Richard Rhinehart and Associates to institute collection efforts against William G. Ellison based on their failure to pursue collection efforts. Attached hereto marked Exhibit A and by this reference made a part hereof is a letter authorizing those collection efforts.

6. Borg-Warner Acceptance Corporation has a Judgment which has not been paid, discharged or satisfied against William G. Ellison with an outstanding balance of \$12,000.00 including interest and costs along with attorney's fees of \$2,500.00.

7. The Satisfaction of Judgment filed in this case was fraudulent, false, improper and a violation of the settlement agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

8. Waterhouse Auctioneers have not delivered to or paid over to Borg-Warner Acceptance Corporation the monies which are due Borg-Warner Acceptance Corporation pursuant to the settlement agreement and this Judgment.

Accordingly, Borg-Warner Acceptance Corporation prays the Court set aside Satisfaction of Judgment and declare it void as well as enter an Order assessing costs against Waterhouse Auctioneers and William G. Ellison for the fraudulent filing of the Satisfaction of Judgment with this Court.

RICHARD RHINEHART & ASSOCIATES

By R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
(712) 258-8706

ATTORNEY FOR PLAINTIFF

RECEIVED
JAN 25 1987

PROOF OF SERVICE

I, R. Scott Rhinehart, certify that I served copies of the foregoing Motion To Set Aside Satisfaction of Judgment by depositing copies thereof in the United States Mail, *certified* postage prepaid on the 21st day of January, 1991, at Sioux City, Woodbury County, Iowa, addressed to their last known address as follows:

Mr. Marvin Waterhouse
Waterhouse Realty and Auctioneers
P.O. Box 126
Manchester, Iowa 52057


R. Scott Rhinehart

WATERHOUSE

REALTY AND AUCTIONEERS



RR 1 (Manchester Livestock Auction)

Manchester, Iowa 52057

April 23, 1990

Scott Rhinehart
310 Frances Building
Sioux City, IA 51101



Dear Mr. Rhinehart:

Pursuant to our phone conversation of Friday April 20, 1990, I am hereby authorizing you to pursue collection of debts owed to us, Borg Warner, and Mr. Sebetka by Bill Ellison.

This letter should not be construed as an assignment of our interests and it should be agreed that any sums collected by you would be divided equally among Waterhouse Auctioneers, Sebetka, and Borg Warner.

Sincerely,

Marvin Waterhouse
WATERHOUSE REALTY & AUCTIONEERS

EXHIBIT A

Mailing Address P.O. Box 126

Telephone (319) 927-3660

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

Chapter 11
BANKRUPTCY NO.

WILLIAM G. ELLISON and
MARGARET Q. ELLISON,
Debtors.

83-00312

BORG-WARNER ACCEPTANCE
CORPORATION,

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

ADVERSARY NO.

Plaintiff,

MAR 11 1991

84-0115C

v.

WILLIAM G. ELLISON,

BARBARA A. EVERLY, CLERK

Defendant.

ORDER RE: Continuance of Hearing and Recusal

On March 7, 1991, a telephonic status conference was held concerning the pending motion to set aside satisfaction of judgment. At the conclusion of that status conference the Court indicated that the hearing on the motion to set aside satisfaction of judgment which is currently scheduled for March 14, 1991, would be continued to April 4, 1991.

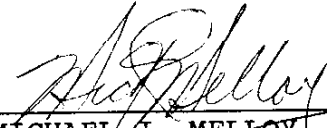
Subsequent to the conclusion of the status conference, the undersigned had an opportunity to review the underlying court file in more detail. In reviewing the court file, I found that another member of my former law firm had represented a creditor in the Ellison Chapter 11 proceeding. Although I have no personal knowledge of the case, nor did I have any personal involvement in the case, I believe that participation in the Chapter 11 case by another member of my firm during the time that I was in the firm of O'Connor & Thomas, P.C., requires that I recuse myself from any further proceedings in this case. Accordingly, an order of recusal will enter.

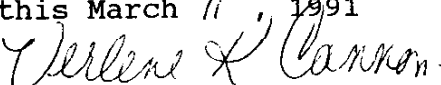
The recusal of the undersigned will also necessitate cancellation of the hearing which was rescheduled to April 4, 1991. This file will be reassigned to the Honorable William L. Edmonds. The parties can anticipate that they will be contacted by Judge Edmonds or his scheduling clerk to arrange for a setting of a new hearing date as to the pending motion to set aside satisfaction of judgment.

IT IS THEREFORE ORDERED that the hearing on the motion to set aside satisfaction of judgment which is currently scheduled for March 14, 1991, and which was continued to April 4, 1991, is continued pending further setting by Judge Edmonds.

IT IS FURTHER ORDERED that the undersigned recuses himself from any further proceedings in this case.

DONE AND ORDERED this 14th day of March, 1991.


MICHAEL J. MELLOY
Chief Bankruptcy Judge

Copies to:
R. Scott Rhinehart;
Joseph Peiffer;
U.S. Trustee;
William G. Ellison;
Wythe Willey;
this March 11, 1991

Deputy Clerk, U.S. Bankruptcy Court
P.O. Box 74890
Cedar Rapids, Iowa 52407

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UNITED STATES BANKRUPTCY COURT
For the Northern District of Iowa

IN RE:

BANKRUPTCY NO.

WILLIAM G. ELLISON
MARGARET Q. ELLISON,

83-00312

Debtor(s).

BORG-WARNER ACCEPTANCE
CORP.,

ADVERSARY NO.

84-0115C

Plaintiffs,

vs.

WILLIAM G. ELLISON,

NOTICE Setting Telephonic
Status Conference

Defendants.

TO: R. SCOTT RHINEHART, Atty for Plaintiff; (712) 258-8706
JOSEPH A. PEIFFER, Atty for Waterhouse (319) 363-1641
Auctioneers;
WYTHE WILLEY; (319) 365-5111
UNITED STATES TRUSTEE;

NOTICE IS GIVEN the above telephonic hearing will be held with
Bankruptcy Judge William L. Edmonds on:

MARCH 29, 1991, at 9:45 a.m.

Parties shall be prepared and available to accept conference
call from the Court at said date and time.

DATED March 15, 1991.

BARBARA A. EVERLY
Clerk, Bankruptcy Court

by: *Jacqueline Monis*
Deputy Clerk
117 U. S. Courthouse
320-6th Street
Sioux City, IA 51101

copies mailed as
above set out;
this 3/15/91 jjm
& William G. Ellison;

NOTE: This hearing will be taped on electronic recording equipment.

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

JAN 25 1991

BARBARA A. EVERLY, CLERK

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

WILLIAM G. ELLISON
MARGARET Q. ELLISON

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiff,

vs.

WILLIAM G. ELLISON,

Defendant,

* * * * *

CHAPTER 11

BANKRUPTCY

NO. 83-00312

Return of Service of
MOTION TO SET ASIDE
SATISFACTION OF JUDGMENT

Adv. 84-01152

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

APR 05 1991

BARBARA A. EVERLY, CLERK

COMES NOW Plaintiff, Borg-Warner Acceptance Corporation and moves the Court to set aside the Satisfaction of Judgment filed with this Court on November 13, 1990. In support thereof the Plaintiff states as follows:

1. On November 21, 1984 a Judgment was rendered against Defendant William G. Ellison.

2. This Judgment was assigned to Waterhouse Auctioneers and their attorney based on an agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

3. This agreement involved a \$12,000.00 payment to Borg-Warner Acceptance Corporation by Waterhouse Auctioneers and a promise to pursue collection against William G. Ellison with the proceeds of such collection to be paid as

3/23 269

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follows:

1. Attorneys fees relating to collection with the balance divided.

2. 1/3 Borg-Warner Acceptance Corporation.

3. 1/3 Waterhouse Auctioneers.

4. 1/3 Sebetka.

4. Despite requests and demands for collection efforts by Plaintiff, Waterhouse Auctioneers failed to pursue and make collection against William G. Ellison.

5. In 1989 and 1990 Borg-Warner made efforts to prompt Waterhouse Auctioneers to comply with the settlement agreement. On the 23rd day of April 1990 Waterhouse Auctioneers authorized Borg-Warner Acceptance corporation and its attorneys Richard Rhinehart and Associates to institute collection efforts against William G. Ellison based on their failure to pursue collection efforts.

Attached hereto marked Exhibit A and by this reference made a part hereof is a letter authorizing those collection efforts.

6. Borg-Warner Acceptance Corporation has a Judgment which has not been paid, discharged or satisfied against William G. Ellison with an outstanding balance of \$12,000.00 including interest and costs along with attorney's fees of \$2,500.00.

7. The Satisfaction of Judgment filed in this case was fraudulent, false, improper and a violation of the settlement agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

8. Waterhouse Auctioneers have not delivered to or paid over to Borg-Warner Acceptance Corporation the monies which are due Borg-Warner Acceptance Corporation pursuant to the settlement agreement and this Judgment.

Accordingly, Borg-Warner Acceptance Corporation prays the Court set aside Satisfaction of Judgment and declare it void as well as enter an Order assessing costs against Waterhouse Auctioneers and William G. Ellison for the fraudulent filing of the Satisfaction of Judgment with this Court.

RICHARD RHINEHART & ASSOCIATES

By



R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
(712) 258-8706

ATTORNEY FOR PLAINTIFF

FILED
JAN 25 1967

PROOF OF SERVICE

I, R. Scott Rhinehart, certify that I served copies of the foregoing Motion To Set Aside Satisfaction of Judgment by depositing copies thereof in the United States Mail, *certified* postage prepaid on the 21st day of January, 1991, at Sioux City, Woodbury County, Iowa, addressed to their last known address as follows:

Mr. Marvin Waterhouse
Waterhouse Realty and Auctioneers
P.O. Box 126
Manchester, Iowa 52057


R. Scott Rhinehart

WATERHOUSE

REALTY AND AUCTIONEERS



RR 1 (Manchester Livestock Auction)

Manchester, Iowa 52057

April 23, 1990

Scott Rhinehart
310 Frances Building
Sioux City, IA 51101



Dear Mr. Rhinehart:

Pursuant to our phone conversation of Friday April 20, 1990, I am hereby authorizing you to pursue collection of debts owed to us, Borg Warner, and Mr. Sebetka by Bill Ellison.

This letter should not be construed as an assignment of our interests and it should be agreed that any sums collected by you would be divided equally among Waterhouse Auctioneers, Sebetka, and Borg Warner.

Sincerely,

Marvin Waterhouse
Marvin Waterhouse

WATERHOUSE REALTY & AUCTIONEERS

EXHIBIT A

Mailing Address P.O. Box 126

Telephone (319) 927-3660

The State of Iowa }
JOHNSON County } ss.

Return of Service of Original Notice.

or how to set aside
satisfaction of judgment

The within notice received this 11th day of March, 1991, and I certify that I served the same on the defendants named below by delivering a copy thereof to each of said defendants personally at the time and place set opposite their respective names:

Name of Defendant	Month	Day	Year	City, Town or Township	County	State
William J. Ellison	3	23	91		Johnson	Iowa
					Johnson	Iowa
					Johnson	Iowa
					Johnson	Iowa
					Johnson	Iowa

Fees
Service \$ 10.00
Copies \$.50
Allge \$ 17.98
Total \$ 18.48

PAYMENT RECEIVED

FROM Rhincher

APR - 1 1991

198/14

JOHNSON COUNTY SHERIFF

ROBERT CARPENTER, SHERIFF

L. M. L. Christiansen
DEPUTY SHERIFF

The State of Iowa }
JOHNSON County } ss.

Return of Service of Original Notice.

The within notice received this _____ day of _____, 19____, and I certify that on the _____ day of _____, 19____, I served the same on the defendant _____ at his dwelling house or usual place of abode in the City, Town or Township of _____ in _____ County, State of Iowa, and which place was not a rooming house, hotel, club or apartment building, by there delivering a copy thereof to _____, a person residing therein who was then at least eighteen years old.

ROBERT CARPENTER, SHERIFF

DEPUTY SHERIFF

OR

I served the same on the def. _____ by giving to spouse _____ with whom (he or she) resides in Johnson Co., Ia.

ROBERT CARPENTER, SHERIFF

The State of Iowa }
JOHNSON County } ss.

Return of Service of Original Notice.

DEPUTY SHERIFF

The within notice received this _____ day of _____, 19____, and I certify that on the _____ day of _____, 19____, I served the same on the defendant _____ at his dwelling house or usual place of abode in the City, Town or Township of _____ in _____ County, State of Iowa, by there delivering a copy thereof to _____, a person residing therein who was then at least 18 years old. That such place was a rooming house, hotel, club or apartment building (1), and the person to whom the copy was delivered was _____ (2).

ROBERT CARPENTER, SHERIFF

DEPUTY SHERIFF

(1) Strike out the words that are not appropriate.

(2) Insert "a member of defendant's family" or "the manager, clerk, proprietor or custodian of such place" as may properly state the facts.

The State of Iowa }
JOHNSON County } ss.

Return of Service of Original Notice.

The within notice received this _____ day of _____, 19____, and I certify that on the _____ day of _____, 19____, I served the same on the defendant _____ (1), by delivering a copy thereof to _____ (2) of said defendant, in the City, town or Township of _____ in _____ County, State of Iowa.

ROBERT CARPENTER, SHERIFF

DEPUTY SHERIFF

Law Offices Of

Richard Rhinehart & Associates

310 Frances Building
Sioux City, Iowa 51101
(712) 258-8706

April 5, 1991

Richard S. Rhinehart
R. Scott Rhinehart

FAX 712-233-3417

Barbara Everly
Clerk of the Bankruptcy Court
First Floor
Federal Bldg. and
United States Courthouse
Sioux City, Iowa 51101

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

APR 05 1991

BARBARA A. EVERLY, CLERK

Re: BWAC v. Ellison Bankruptcy No. 83-00312
Adversary No. 84-0115C

Dear Barbara:

Enclosed, please find the return of service showing service on William G. Ellison in the above bankruptcy matter. Please be advised that this is to be filed in Adversary No. 84-0115C. This file has now been transferred over to Judge Edmonds here in Sioux City. We are aware that the Judge has the file and that it should be filed and placed in the file in his office.

Very truly yours,

RICHARD RHINEHART & ASSOCIATES

By R. Scott Rhinehart
R. Scott Rhinehart

RSR/sh
enc.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
APR 29 1991

BARBARA A. EVERLY, CLERK

IN RE:

CHAPTER 11
BANKRUPTCY NO.

WILLIAM G. ELLISON
MARGARET Q. ELLISON

83-00312

Debtor(s),

BORG-WARNER ACCEPTANCE
CORP.,

ADVERSARY NO.
X84-0115C

Plaintiff(s),

vs/

WILLIAM G. ELLISON,


Defendant(s).

ORDER Reopening Adversary Proceeding

FOR GOOD CAUSE;

IT IS ORDERED Adversary Proceeding No. X84-0115C is reopened.

ORDERED April 29, 1991



WILLIAM L. EDMONDS
Bankruptcy Judge

Copy to:

R. Scott Rhinehart, Atty for
Plaintiff;
William Ellison, Defendant;
Joseph Peiffer, Atty for Waterhouse
Auctioneers;
Wythe Willey;
U.S. Trustee:
this May 1, 1991
Marion M. Bolger
Deputy Clerk, Bankruptcy Court
PO Box 74890
Cedar Rapids, IA 52407

RECORDED VOL I
Page 144

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

APR 30 1991

IN RE:

WILLIAM G. ELLISON and
MARGARET Q. ELLISON,

Debtors.

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiff,

vs.

WILLIAM G. ELLISON

Defendant.

Chapter 11

Bankruptcy No.
83-00312

BARBARA A. EVERLY, CLERK

RESISTANCE TO MOTION TO SET ASIDE SATISFACTION OF JUDGMENT

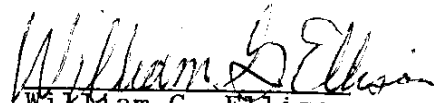
Comes now William G. Ellison representing himself in
resistance to the Motion to Set Aside Satisfaction of Judgment
states the following:

1. Defendant concurs with the information given in the
Waterhouse resistance statement.
2. It is my belief that Waterhouse is the sole owner of
the said judgment and in reliance upon that belief, we
made a full and complete settlement between the two of
us.
3. Defendant further requests additional time to obtain
legal council in this matter.

WHEREFORE, William G. Ellison respectfully requests that this
Court refuse to set aside the Satisfaction of Judgment and that the
Motion to Set Aside the Satisfaction of Judgment be denied and all
costs be assessed against the Movant, Borg-Warner Acceptance
Corporation.

DATED this 30th day of April, 1991.

WILLIAM G. ELLISON


William G. Ellison
Rural Route 2
Box 45K
Solon, Iowa 52333
Telephone: (319) 644-3104

Copies to:

R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101

United State Trustee
425 2nd Street SE, Box 47
Suite 675 The Center
Cedar Rapids, Iowa 52401

Joseph A. Peiffer
465 Brenton Financial Center
150 First Avenue NE
Cedar Rapids, Iowa 52401

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FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA
AUG 05 1991
JAMES H. KELLEY, CLERK

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS,

BORG-WARNER ACCEPTANCE,
CORPORATION,

Plaintiffs,

vs.

WILLIAM G. ELLISON,

Defendant.

CHAPTER 11 BANKRUPTCY
NO. 83-00312
ADVERSARY NO. 84-0115C

MOTION FOR
CONTINUANCE

* * * * *

Pursuant to Local Rule 22 of the Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Iowa, Plaintiff, Borg-Warner Acceptance Corporation, moves for a Continuance of Trial for the following reasons:

1. Trial in this matter is currently scheduled for August 29, 1991.

2. Plaintiff has subpoenaed and intends to call Attorney Whythe Willey as a witness in this Trial.

3. On or about July 26, 1991, Attorney Whythe Willey informed Plaintiff's Counsel, R. Scott Rhinehart, that he would be unavailable to testify at Trial during the week of August 29, 1991.

4. Attorney Whythe Willey's testimony is indispensable in this case and without his testimony, Plaintiff would be substantially prejudiced.

5. Plaintiff's Counsel has sought the approval of the attorneys for Waterhouse prior to this filing of this Motion, however no decision has been made by them.

Plaintiff's Counsel has not contacted William G. Ellison, personally thinking that the prompt filing of this Motion might be promptly responded to by himself or his attorney.

Wherefore, Plaintiff requests that the Court grant their Motion for Continuance and set this matter for Trial after October 1, 1991.

RICHARD RHINEHART & ASSOCIATES

By: R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101
(712) 258-8706

ATTORNEY FOR PLAINTIFFS

Recorded
Vol. I
Page 144

IT IS HEREBY CERTIFIED THAT THE FOREGOING HAS BEEN SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY DEPOSITING A COPY THEREOF IN THE U. S. MAIL, POSTAGE PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DISCLOSED ON THE PLEADINGS, ON August 5, 1991.

Copy handed to
filing attorney
on date filed 8/2

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

FILED
U.S. BANKRUPTCY COURT S.C.
NORTHERN DISTRICT OF IOWA

AUG 07 1991

BARBARA A. EVERLY, CLERK

IN RE:

WILLIAM G. ELLISON and	)	Chapter 11
MARGARET Q. ELLISON,)	
	)	Bankruptcy No. 83-00312
Debtors.)	

BORG-WARNER ACCEPTANCE)	
CORPORATION,)	
)	
Plaintiff,	)	Adversary No. 84-0115C
)	
vs.)	
)	
WILLIAM G. ELLISON,)	
)	
Defendant.)	

ORDER RE: PLAINTIFF'S MOTION FOR CONTINUE TRIAL

On March 29, 1991, this court held a scheduling conference regarding the progression to trial of the pending motion to set aside satisfaction of judgment. Included in the phone conversation were attorney Joseph Peiffer representing Waterhouse Auctioneers and R. Scott Rhinehart representing Borg-Warner Acceptance Corporation. Wythe Willey, a Cedar Rapids attorney, also participated in the conference for the purpose of the selection of a convenient trial date to all parties. At the time of the conference, the court indicated that trial would likely be set in Cedar Rapids during the week of August 26, 1991. By order of March 29, 1991, trial was specifically set for August 29, 1991.

Plaintiff, Borg-Warner Acceptance Corporation, has now moved for a continuance of trial on the grounds that although


it has subpoenaed and intends to call as a witness attorney Wythe Willey, it has been advised by Wythe Willey that he would be "unavailable to testify at Trial during the week of August 29, 1991."

Borg-Warner, therefore, requests a continuance to a date after October 1 so that Mr. Willey would be present at trial. The motion for continuance fails to state any reason why Mr. Willey would not be available. Mr. Willey, like the counsel for the parties, was consulted as to potential dates. Mr. Willey has been subpoenaed, and he has not sought protection from that subpoena.

Because this trial date was set long in advance and through the consultation of the persons involved and because the motion states no basis for Mr. Willey's desire not to be present, the court concludes that the motion for continuance should be denied.

IT IS ORDERED that the motion to continue filed by Borg-Warner Acceptance Corporation is denied.

SO ORDERED ON THIS 7th DAY OF AUGUST, 1991.


William L. Edmonds, Bankruptcy Judge

I certify that on 8-7-91 copies of this order were served by U. S. mail on: R. Scott Rhinehart, Joseph Peiffer, Wythe Willey, William G. Ellison, and U. S. Trustee. ~~X~~

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT-14
NORTHERN DISTRICT OF IOWA
AUG 13 1991
SARAH K. EVERLY, CLERK

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS,

BORG-WARNER ACCEPTANCE,
CORPORATION,

Plaintiffs,

vs.

WILLIAM G. ELLISON,

Defendant.

* CHAPTER 11 BANKRUPTCY
* NO. 83-00312
* ADVERSARY NO. 84-0115C
*

* MOTION FOR
* SUMMARY JUDGMENT
*

* * * * *

Pursuant to Rule 237(a) of the Iowa Rules of Civil Procedure, Plaintiff, Borg-Warner Acceptance Corporation, moves for Summary Judgment in their favor against Defendant, William G. Ellison, for the following reasons:

Plaintiff served a Request for Admissions upon Defendant by certified mail on 6-20-91. A copy of the Request for Admissions is attached hereto marked Exhibit 1, a copy of the certified mail return receipt showing service upon William G. Ellison is attached hereto marked Exhibit 2.

Pursuant to Rule 36(a) of the Federal Rules of Civil Procedure, the matter is admitted unless, within 30 days after the service of the Request, or within such shorter or longer time as the court may on motion allow, the party to whom the request is directed serves upon the party requesting the admission, a written answer or objection addressed to the matter, signed by the party or the parties attorney. The Defendant, William G. Ellison in this case has not served upon the Plaintiff a written answer or

objection and none has been filed to the Request for Admission.

Pursuant to Federal Rule of Civil Procedure 36(b) Defendant, William G. Ellison, admits that a Release and Settlement Agreement was entered into binding Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka, and Borg-Warner Acceptance Corporation; that Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneers were aware of this agreement and consented to its terms; that Franklin York, acted in his capacity as attorney for Marvin Waterhouse and Wesley Waterhouse in signing the Release and Settlement Agreement; that this Release and Settlement Agreement is valid and binding upon all parties thereto; that this Release and Settlement Agreement provides that Borg-Warner Acceptance Corporation has a non-dischargeable judgment against debtor, William G. Ellison, in the United States Bankruptcy Court for the Northern District of Iowa, Bankruptcy No. 83-00312 in the sum of \$36,824.00 with interest at 10% from March 19, 1984 and 15% from the date of judgment, which judgment is dated November 21, 1984 along with an award of attorneys fees in the sum of \$2,500.00; that after December, 1985, Waterhouse failed to institute collection efforts based upon the Judgment against William G. Ellison; that Waterhouse failed to collect any sums from William G. Ellison; that Waterhouse executed a Satisfaction of Judgment in favor of

William G. Ellison; that no consideration was given for this Satisfaction of Judgment; that this Satisfaction of Judgment was filed without the knowledge or consent of Borg-Warner Acceptance Corporation; that Borg-Warner as an interested party to this action, should have been informed as to all efforts regarding collection against William G. Ellison and the discharge of William G. Ellison; that the Satisfaction of Judgment was executed in violation of the Release and Settlement Agreement among Borg-Warner Acceptance Corporation, Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka; that this Satisfaction of Judgment was filed in violation of the Release and Settlement Agreement among Borg-Warner Acceptance Corporation, Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka.

Based upon these admissions, Plaintiff, Borg-Warner Acceptance Corporation is entitled to have the Satisfaction of Judgment in favor of William G. Ellison set aside. The Plaintiff, Borg-Warner Acceptance Corporation, believes that no defense exists against said claim; that no material fact necessary to support it is in genuine dispute; and that Defendant, William G. Ellison, does not really claim, and cannot claim under oath, that said facts are untrue.

WHEREFORE, as there is no genuine issue to any material fact as between Plaintiff, Borg-Warner Acceptance Corporation and defendant William G. Ellison, Plaintiff is

entitled to a Order Setting aside the Satisfaction of
Judgment as a matter of law.

RICHARD RHINEHART & ASSOCIATES

By: R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101
(712) 258-8706

ATTORNEY FOR PLAINTIFF

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT
WAS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY
DEPOSITING A COPY THEREOF IN THE U. S. MAIL, POSTAGE
PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS
OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DIS-
CLOSED ON THE PLEADINGS, ON August 15, 1991.

Marsha Stroup

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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE: WILLIAM G. ELLISON AND MARGARET Q. ELLISON, DEBTORS,

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiffs,

v.

WILLIAM G. ELLISON,

Defendant.

* CHAPTER 11 BANKRUPTCY
* NO. 83-00312
* ADVERSARY NO. 84-0115C
* REQUEST FOR ADMISSIONS
*
*
*

* * * * *

COMES NOW, The Plaintiff, Borg-Warner Acceptance Corporation, and pursuant to Iowa Rules of Civil Procedure request that Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneer, admit the following facts:

1. A Release and Settlement Agreement was entered into binding Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka and Borg-Warner Acceptance Corporation.

2. This agreement a copy of which is attached hereto marked exhibit "A" and by this reference made a part hereof provided in part on page 2 Waterhouse was to make collection efforts of the Judgment against William G. Ellison, and to turn the first one-third of this collection over to Borg-Warner.

3. This Release and Settlement Agreement was signed by R. Scott Rhinehart for Borg-Warner Acceptance Corporation,

PLAINTIFF'S
EXHIBIT

1

Franklin York for Marvin Waterhouse and Wesley Waterhouse, and Ronald Wendt for Eli Tractor and Equipment Company, Robert Shebetka and Shirleen Shebetka.

4. Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneers, were aware of this agreement and consented to its terms.

5. Marvin Waterhouse and Wesley Waterhouse D/B/A Waterhouse Auctioneers have never objected or rescinded this agreement. Franklin York was the attorney for Marvin Waterhouse and Wesley Waterhouse, during the time that the parties entered into the Release and Settlement Agreement.

6. Marvin Waterhouse and Wesley Waterhouse had given their approval for Franklin York, as their attorney, to act on their behalf.

7. Franklin York, acted in his capacity as the attorney for Marvin W. and Wesley W. in signing the Release and Settlement Agreement.

8. This Release and Settlement Agreement is valid and binding upon all parties thereto.

9. This Release and Settlement Agreement provide that Borg-Warner Acceptance Corporation has a non-dischargeable judgement against debtor, William G. Ellison, in the United States Bankruptcy Court for the Northern District of Iowa, Bankruptcy No. 83-00312 in the sum of \$36,824 with interest at 10% from March 19, 1984 and 15% from the date of judgment which judgement is dated November 21, 1984 along with an award of attorney fees in the sum of \$2,500.

10. This Release and Settlement Agreement states at paragraph 4 that Marvin Waterhouse and Wesley Waterhouse, agree to accept an Assignment of Judgement in the full amount and to pursue collection against William G. Ellison in and after his pending Bankruptcy action. Marvin Waterhouse and Wesley Waterhouse, agree that any sums that they are able to recover from William G. Ellison will be divided as follows:

1. The attorneys fees related to the collection efforts will be paid first.
2. The remaining portion of the funds received will be divided one-third to Borg-Warner Acceptance Corporation, one-third to Defendants, Waterhouse, and one-third to Defendants Eli Tractor and Equipment Co., Inc., Robert Shebetka and Shirleen Shebetka.

11. Attorney Franklin York did initially pursue collection efforts against Ellison as provided in the Release and Settlement Agreement.

12. This Release and Settlement Agreement further states that if Waterhouse fails to pursue William G. Ellison for such sums, it is understood that Waterhouse, will authorize the attorneys for Borg-Warner Acceptance Corporation to institute collection efforts based upon that Judgement or deliver an Assignment of that Judgment back to Borg-Warner Acceptance Corporation.

13. After December 1985 Waterhouse failed to institute collection efforts based upon the judgment against William G. Ellison.

14. Waterhouse failed to collect any sums from William G. Ellison.

15. In a letter dated April 23, 1990, attached hereto marked exhibit "B" and by this reference made a part hereof Marvin Waterhouse directed R. Scott Rhinehart, Attorney for Borg-Warner Acceptance Corporation to pursue collection of debts owed to Waterhouse, Borg-Warner and Mr. Shebetka by William G. Ellison.

16. Waterhouse authorized Borg-Warner to institute collection efforts against William G. Ellison based on Waterhouse's failure to pursue collection efforts.

17. Borg-Warner did institute those collection efforts against Ellison based upon the failure of Waterhouse to pursue collection and based upon the April 23, 1990 letter. Waterhouse executed a Satisfaction of Judgment in favor of William G. Ellison.. A copy is attached hereto marked exhibit "C" and by this reference made a part hereof.

18. No consideration was given for this Satisfaction of Judgment.

19. Attorney Pfeiffer admitted to Bankruptcy Judge Melloy during a telephonic conference with counsel on April 3, 1991 that William G. Ellison gave no consideration to Waterhouse Auctioneers given for the Satisfaction of Judgment filed in this matter.

20. Attorney Wythe Willey admitted to Bankruptcy Judge Melloy during a telephonic conference with counsel on April 3, 1991 that William G. Ellison gave no consideration to Waterhouse Auctioneers for the Satisfaction of Judgment filed in this matter.

21. Attorney Wythe Willey drafted the Satisfaction of Judgment for William G. Ellison. Attorney Wythe Willey submitted to Waterhouse Auctioneers the Satisfaction of Judgment. Attorney Wythe Willey filed with the Clerk of the Bankruptcy Court the executed Satisfaction of Judgment.

22. This Satisfaction of Judgment was filed without the knowledge or consent of Borg-Warner Acceptance Corporation.

23. Borg-Warner as an interested party to this action, should have been informed as to all efforts regarding collection against William G. Ellison and discharge of William G. Ellison.

24. The Satisfaction of Judgment was executed in violation of the Release and Settlement Agreement between Borg-Warner Acceptance Corporation, Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka.

25. This Satisfaction of Judgment was filed in violation of the Release and Settlement Agreement between Borg-Warner Acceptance Corporation, Waterhouse Auctioneers, Eli Tractor and Equipment Company, Inc., Robert Shebetka and Shirleen Shebetka.

RICHARD RHINEHART & ASSOCIATES

BY R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101

Attorney for Plaintiff

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT
WAS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY
DEPOSITING A COPY THEREOF IN THE U. S. MAIL, POSTAGE
PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS
OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DIS-
CLOSED ON THE PLEADINGS, ON August 18, 1941.

Mary Kay Schaefer

RELEASE AND SETTLEMENT AGREEMENT

WHEREAS, there is now pending in the U.S. District Court for the Northern District of Iowa, an action commenced by Borg-Warner Acceptance Corporation, as Plaintiff, against Marvin Waterhouse and Wesley Waterhouse d/b/a Waterhouse Auctioneers, Ely Tractor and Equipment Co. Inc., an Iowa Corporation, Robert Shebetka and Shirleen Shebetka, Defendants, known as Civil Action No. 84-2021, for damages growing out of the alleged conversion of certain pieces of personal property previously owned by one William G. Ellison and subject to a perfected purchase money security interest in Plaintiff and the alleged guarantee of payment in the event Ellison defaulted in his contracts.

WHEREAS, all appearing parties to said action are desirous of effecting a full, final and complete settlement of all claims made or growing out of those pieces of farm equipment purchased by William G. Ellison from Ely Tractor and Equipment Co. Inc., a Corporation, which items of equipment were subsequently disposed or sold by William Ellison, including the liability, if any, of each and all the parties Defendant among and between themselves.

WHEREAS, Borg-Warner Acceptance Corporation has a Non-dischargeable Judgment against the Debtor, William G. Ellison, in the United States Bankruptcy Court for the Northern District of Iowa, Bankruptcy No. 83-00312 in the sum of \$36,824 with interest at 10% from March 19, 1984, and 15% from the date of the Judgment, which

EXHIBIT A

Judgment is dated November 21, 1984, along with an award of attorneys' fees in the sum of \$2,500.

WHEREAS, all parties to the action agree that some assignment of the Judgment should be made and some collection efforts should be pursued. To this extent, Defendants, Marvin Waterhouse and Wesley Waterhouse, agreed to accept an Assignment of Judgment in the full amount and to pursue collection against William G. Ellison in and after his pending bankruptcy action. Defendants, Marvin Waterhouse and Wesley Waterhouse, agree that any sums that they (through their attorney) are able to recover from William G. Ellison will be divided as follows:

1. The attorneys' fees related to the collection efforts will be paid first.
2. The remaining portion of the funds received will be divided 1/3 Borg-Warner Acceptance Corporation, 1/3 Defendants, Waterhouse, and 1/3 Defendants, Ely Tractor and Equipment Co. Inc., Robert Shebetka and Shirleen Shebetka.

In the event, the said Defendants, Waterhouse, fail to pursue William G. Ellison for such sums, it is understood that Defendants, Waterhouse, will authorize the attorneys for Borg-Warner Acceptance Corporation to institute collection efforts based upon that Judgment or deliver an assignment of that Judgment back to Borg-Warner.

NOW, THEREFORE, in consideration of the following, a Settlement Agreement is reached. Ely Tractor and Equipment Co. Inc., an Iowa Corporation, Robert Shebetka and Shirleen Shebetka individually, will consent to a Judgment in favor of Borg-Warner Acceptance Corporation

in the total sum of \$12,274.60 together with interest at 14 1/2% and the costs of this action. The terms and conditions of this Judgment are set forth in the Judgment which is by this reference incorporated into this Stipulation.

In consideration of the total payment of \$12,135 cash to the Plaintiff herein by and on behalf of the Defendants, Waterhouse, the receipt and sufficiency of which is hereby acknowledged, Borg-Warner Acceptance Corporation, Plaintiff herein, does hereby remise release and forever discharge Marvin Waterhouse and Wesley Waterhouse d/b/a Waterhouse Auctioneers and each of them, their agents, representatives, employees and all other firms, persons, and corporations who may be charged with liability for the loss and damages claimed by the Plaintiff herein of and from any and all manner of action or actions, cause or causes of action, suits, claims, and demands both known and unknown whatsoever in law or in equity as a result of the sale of certain pieces of farm equipment owned by William G. Ellison subject to Borg-Warner Acceptance Corporation's perfected purchase money security interest.

And, in further consideration of the contributions to settlement made by and on behalf of the undersigned parties Defendant, and including the mutual covenants herein contained and other good and valuable consideration, it is understood and agreed by and among the undersigned Defendant cross-claimants that all actions, cause or causes of action, suits, claims and demands growing out of the loss

and damages to Borg-Warner Acceptance Corporation resulting from the sale of certain pieces of farm equipment owned by William G. Ellison subject to Borg-Warner Acceptance Corporation's perfected purchase money security interest are as among and between the said undersigned Defendants hereby and herewith released, compromised, and settled as between themselves, and that the said parties Defendant are forever released and discharged each from the other from any further liability directly or indirectly on account thereof.

IT IS UNDERSTOOD AND AGREED that the payment made herein and settlement of the Plaintiff's claim is in compromise of a disputed claim, and that payment by Defendants, Waterhouse, is not construed as an admission of liability on the part of Waterhouses and they are hereby released.

IT IS FURTHER UNDERSTOOD AND AGREED that as a part of this Settlement Agreement, parties hereto will execute a Stipulation for Dismissal to be filed with approval of the Court following entry of the Judgment, payment of the consideration hereinabove set out, and payment of the Court costs to be divided between the parties Defendant.

BORG-WARNER ACCEPTANCE CORPORATION

By R. Scott Rhinehart
R. Scott Rhinehart, its Attorney

RICHARD RHINEHART & ASSOCIATES
515 Frances Building
Sioux City, Iowa 51101
(712) 258-8706

MARVIN WATERHOUSE

By Franklin R. York
Franklin York, his Attorney

WHITE, STONE, AASGAARD & YORK
1080 Ninth Avenue
P. O. Box 388
Marion, Iowa 52302
(319) 377-1509

WESLEY WATERHOUSE

By Franklin R. York
Franklin R. York, his Attorney

WHITE, STONE, AASGAARD & YORK
1080 Ninth Avenue
P. O. Box 388
Marion, Iowa 52302
(319) 377-1509

ELY TRACTOR AND EQUIPMENT CO. INC.
a Corporation

By Ronald Wendt
Ronald Wendt, its Attorney

NAZETTE, HENDRICKSON, MARNER & GOOD
200 First Street S.W.
Cedar Rapids, Iowa 52404
(319) 364-0124

ROBERT SHEBETKA

By 
Ronald Wendt, his Attorney

NAZETTE, HENDRICKSON, MARNER & GOOD
200 First Street S.W.
Cedar Rapids, Iowa 52404
(319) 364-0124

SHIRLEEN SHEBETKA

By 
Ronald Wendt, her Attorney

NAZETTE, HENDRICKSON, MARNER & GOOD
200 First Street S.W.
Cedar Rapids, Iowa 52404
(319) 364-0124

WATERHOUSE REALTY AND AUCTIONEERS

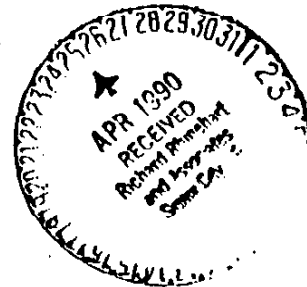


RR 1 (Manchester Livestock Auction)

Manchester, Iowa 52057

April 23, 1990

Scott Rhinehart
310 Frances Building
Sioux City, IA 51101



Dear Mr. Rhinehart:

Pursuant to our phone conversation of Friday April 20, 1990, I am hereby authorizing you to pursue collection of debts owed to us, Borg Warner, and Mr. Sebetka by Bill Ellison.

This letter should not be construed as an assignment of our interests and it should be agreed that any sums collected by you would be divided equally among Waterhouse Auctioneers, Sebetka, and Borg Warner.

Sincerely,

Marvin Waterhouse
Marvin Waterhouse

WATERHOUSE REALTY & AUCTIONEERS

Mailing Address P.O. Box 126

Telephone (319) 927-3660

EXHIBIT B

NOV 13 1990

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

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ACKNOWLEDGMENT

STATE OF IOWA)
COUNTY OF) ss

ON this 12 day of Nov 1990, before me, the undersigned,
a Notary Public in and for the State of Iowa, personally appeared
os Wesley Waterhouse, known to be the identical person
Waterhouse Auctioneers, and acknowledged that he executed the
same as his voluntary act and deed.

Leigh A. White
Notary Public in and for the state of Iowa



● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN" space on the reverse side. Failure to do this will prevent card from being returned to you. The return receipt fee will provide you the name of the person delivered, and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: William G. Ellison RR 2 Box 45K Solon, Iowa 52333	4. Article Number Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED .
5. Signature — Addressee X <i>Mary Freeman</i>	8. Addressee's Address (ONLY if requested and fee paid) <div style="background-color: black; color: white; padding: 5px; text-align: center;"> PLAINTIFF'S EXHIBIT </div> <div style="font-size: 2em; margin-top: 10px;">2</div>
6. Signature — Agent X	
7. Date of Delivery 6-20-91	

PS Form 3811, Apr. 1989 U.S.G.P.O. 1989 238 816 N RECEIPT

TO RETURN


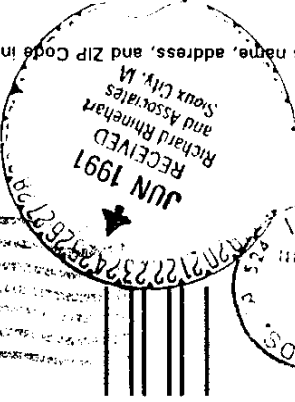

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

Print Sender's name, address, and ZIP Code in the space below.

RICHARD RHINEHART & ASSOCIATES
LAW OFFICES
310 FRANCES BUILDING
SIOUX CITY, IOWA 51101
TELEPHONE (712) 258-8708

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

UNITED STATES MARSHALS SERVICE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
BANKRUPTCY DIVISION

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

OCT 31 1988

BARBARA A. EVERLY, CLERK

BORG-WARNER ACCEPTANCE CORP.,)
Plaintiff,) BANKRUPTCY
vs.) ~~XXXX~~ NO. BY 83-00312
WILLIAM G. ELLISON) NOTICE OF GARNISHMENT
Defendant(s).) AND INTERROGATORIES

TO William G. Ellison and Auction Clerk of Leo Bopp Public
Auction
as garnishee herein and as supposed debtor of Borg-Warner Acceptance
Corp. - debt assigned to Waterhouse Auctioneers

YOU ARE HEREBY NOTIFIED, that you are attached as garnishee, in the above-entitled action, by virtue of a Writ of Execution to me directed by the Clerk of said Bankruptcy Court for the sum of \$ 36,824.00 judgment, plus costs and interest from date of said judgment, and that you are required not to pay any non-exempt funds due or hereinafter to become due, by you to said defendant, subject to the provisions of Chapter 642, Code of Iowa any amendments thereto; and Section 1672 and 1673 of Title 15, U.S.Code and that you must remand possession of all non-exempt funds of said defendant(s) now or hereafter being in your custody or under your control, to the Clerk, U.S. Bankruptcy Court, Northern District of Iowa, P.O. Box 4371, Cedar Rapids, Iowa 52407, Phone: 319-399-2473.

SEE ATTACHED INSTRUCTIONS TO GARNISHEE FOR ADDITIONAL INFORMATION.

And you are further notified and requested to file full sworn answers to below questions with the Clerk of the U.S. Bankruptcy Court, within 14 days from the date of service, or you may be liable to pay entire judgment which said plaintiff may obtain against said defendant.

For your information the
Attorney for Plaintiff is
Franklin R. York

JAMES P. JONKER
UNITED STATES MARSHAL
P.O. Box 4740
Cedar Rapids, IA 52407
Phone: 319-399-2417

By: Tobin H. Michael

VOL. I
Pg. 144

QUESTIONS TO BE ANSWERED BY THE GARNISHEE AS REQUIRED BY PROVISIONS OF CHAPTER 642,
CODE OF IOWA:

Is the defendant employed by you at this time? Yes ✓ No

1. Are you in any manner indebted to the defendant in this suit, No,
or do you owe him money or property which is not yet due? If so, state
particulars:

2. Have you in your possession or under your control any property, rights or
credits of the said defendant? If so, what is the value of same? No

3. Do you know of any debts owing the said defendant, whether due or not due, or
any property, rights or credits belonging to him and now in the possession or
under control of others? If so, state particulars: No

4. Do you compensate the defendant in this suit for any personal services whether
denominated as wages, salary, commission, bonus or otherwise, including periodic
payments pursuant to a pension or retirement program? If so, state the amount
of the compensation reasonably anticipated to be paid defendant during the
calendar year: NO - ONLY ACTUAL EXPENSES ARE PAID TO
DEFENDANT - ALL OTHER MONEY GOES FOR COMPANY OPERATION

I do solemnly swear/affirm under penalty of perjury, that I have made full and
true answers to the above questions touching the matter wherein I have been
attached as garnishee.

Garnishee ELLISON AUCTION CO OF IA By: Wm Ellison

Subscribed and sworn to before me this 15 day of October 1988.

JAMES P. JONKER USM By: Steve Dillithi USM
UNITED STATES MARSHAL DEPUTY

NOTE: After completing this form retain Copy Number 4 for your records.

Return Copy Number 1 along with any funds to:

Clerk, U.S. Bankruptcy Court
P.O. Box 4371
Cedar Rapids, IA 52407

Return Copies 2 and 3 in the enclosed envelope to:

U.S. Marshals Service
P.O. Box 4740
Cedar Rapids, IA 52407

UNITED STATES MARSHALS SERVICE

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
BANKRUPTCY DIVISION

OCT 31 1988

BARBARA A. EVERLY, CLERK

BORG-WARNER ACCEPTANCE CORP.,)
Plaintiff,) BANKRUPTCY
vs.) ~~CIVIL~~ NO. BY 83-00312
WILLIAM G. ELLISON,) NOTICE OF GARNISHMENT
Defendant(s).) AND INTERROGATORIES

TO William G. Ellison and Auction Clerk of William R. Netolicky
Estate Auction
as garnishee herein and as supposed debtor of Borg-Warner Acceptance
Corp. - debt assigned to Waterhouse Auctioneers

YOU ARE HEREBY NOTIFIED, that you are attached as garnishee, in the above-entitled action, by virtue of a Writ of Execution to me directed by the Clerk of said Bankruptcy Court for the sum of \$ 36,824.00 judgment, plus costs and interest from date of said judgment, and that you are required not to pay any non-exempt funds due or hereinafter to become due, by you to said defendant, subject to the provisions of Chapter 642, Code of Iowa any amendments thereto; and Section 1672 and 1673 of Title 15, U.S.Code and that you must remand possession of all non-exempt funds of said defendant(s) now or hereafter being in your custody or under your control, to the Clerk, U.S. Bankruptcy Court, Northern District of Iowa, P.O. Box 4371, Cedar Rapids, Iowa 52407, Phone: 319-399-2473.

SEE ATTACHED INSTRUCTIONS TO GARNISHEE FOR ADDITIONAL INFORMATION.

And you are further notified and requested to file full sworn answers to below questions with the Clerk of the U.S. Bankruptcy Court, within 14 days from the date of service, or you may be liable to pay entire judgment which said plaintiff may obtain against said defendant.

For your information the
Attorney for Plaintiff is
Franklin R. York

JAMES P. JONKER
UNITED STATES MARSHAL
P.O. Box 4740
Cedar Rapids, IA 52407
Phone: 319-399-2417

By: St. P. Ballant

VOL. I
Pg. 144

QUESTIONS TO BE ANSWERED BY THE GARNISHEE AS REQUIRED BY PROVISIONS OF CHAPTER 642,
CODE OF IOWA:

Is the defendant employed by you at this time? Yes ✓ No

1. Are you in any manner indebted to the defendant in this suit, No,
or do you owe him money or property which is not yet due? If so, state
particulars:

2. Have you in your possession or under your control any property, rights or
credits of the said defendant? If so, what is the value of same? No

3. Do you know of any debts owing the said defendant, whether due or not due, or
any property, rights or credits belonging to him and now in the possession or
under control of others? If so, state particulars: No

4. Do you compensate the defendant in this suit for any personal services whether
denominated as wages, salary, commission, bonus or otherwise, including periodic
payments pursuant to a pension or retirement program? If so, state the amount
of the compensation reasonably anticipated to be paid defendant during the
calendar year: NO - ONLY ACTUAL EXPENSES ARE PAID TO
DEFENDANT - ALL OTHER MONEY GOES FOR COMPANY OPERATION

I do solemnly swear/affirm under penalty of perjury, that I have made full and
true answers to the above questions touching the matter wherein I have been
attached as garnishee.

Garnishee ELLISON AUCTION CO OF
IA

By: Wm Ellis

Subscribed and sworn to before me this day of October 19 88.

By:
UNITED STATES MARSHAL DEPUTY

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Clerk, U.S. Bankruptcy Court
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Cedar Rapids, IA 52407

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P.O. Box 4740
Cedar Rapids, IA 52407

BKY

UNITED STATES MARSHALS SERVICE

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
BANKRUPTCY DIVISION

NOV - 2 1988

BARBARA A. EVERLY, CLERK

BORG-WARNER ACCEPTANCE CORP.,)

Plaintiff,)

vs.)

WILLIAM G. ELLISON,)

Defendant(s).)

BANKRUPTCY

~~XXX~~ NO. BY 83-00312

NOTICE OF GARNISHMENT
AND INTERROGATORIES

TO William G. Ellison and Auction Clerk of William R. Netolicky Estate Auction

as garnishee herein and as supposed debtor of Borg-Warner Acceptance

Corp. - debt assigned to Waterhouse Auctioneers

YOU ARE HEREBY NOTIFIED, that you are attached as garnishee, in the above-entitled action, by virtue of a Writ of Execution to me directed by the Clerk of said Bankruptcy Court for the sum of \$ 36,824.00 judgment, plus costs and interest from date of said judgment, and that you are required not to pay any non-exempt funds due or hereinafter to become due, by you to said defendant, subject to the provisions of Chapter 642, Code of Iowa any amendments thereto; and Section 1672 and 1673 of Title 15, U.S.Code and that you must remand possession of all non-exempt funds of said defendant(s) now or hereafter being in your custody or under your control, to the Clerk, U.S. Bankruptcy Court, Northern District of Iowa, P.O. Box 4371, Cedar Rapids, Iowa 52407, Phone: 319-399-2473.

SEE ATTACHED INSTRUCTIONS TO GARNISHEE FOR ADDITIONAL INFORMATION.

And you are further notified and requested to file full sworn answers to below questions with the Clerk of the U.S. Bankruptcy Court, within 14 days from the date of service, or you may be liable to pay entire judgment which said plaintiff may obtain against said defendant.

For your information the
Attorney for Plaintiff is
Franklin R. York

UNITED STATES MARSHAL
P.O. Box 4740
Cedar Rapids, IA 52407
Phone: 319-399-2417

By: _____

VOL. I
Pg. 144

QUESTIONS TO BE ANSWERED BY THE GARNISHEE AS REQUIRED BY PROVISIONS OF CHAPTER 642,
CODE OF IOWA:

Is the defendant employed by you at this time? Yes ☒ No ☐

1. Are you in any manner indebted to the defendant in this suit, No, or do you owe him money or property which is not yet due? If so, state particulars: _____
2. Have you in your possession or under your control any property, rights or credits of the said defendant? If so, what is the value of same? No
3. Do you know of any debts owing the said defendant, whether due or not due, or any property, rights or credits belonging to him and now in the possession or under control of others? If so, state particulars: No
4. Do you compensate the defendant in this suit for any personal services whether denominated as wages, salary, commission, bonus or otherwise, including periodic payments pursuant to a pension or retirement program? If so, state the amount of the compensation reasonably anticipated to be paid defendant during the calendar year: NO - ONLY ACTUAL EXPENSES ARE PAID TO DEFENDANT - ALL OTHER MONEY GOES FOR COMPANY OPERAT.

I do solemnly swear/affirm under penalty of perjury, that I have made full and true answers to the above questions touching the matter wherein I have been attached as garnishee.

Garnishee ELLISON AUCTION CO OF IA

By: Wm Ellison

Subscribed and sworn to before me this 15 day of October 1988.

JAMES P. JONKER
UNITED STATES MARSHAL

By: [Signature]
DEPUTY

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Clerk, U.S. Bankruptcy Court
P.O. Box 4371
Cedar Rapids, IA 52407

Return Copies 2 and 3 in the enclosed envelope to:

U.S. Marshals Service
P.O. Box 4740
Cedar Rapids, IA 52407

NOV 13 1990

BARBARA A. EVERLY, CLERK

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

William G. Ellison
Margaret Q. Ellison

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiff,

vs.

WILLIAM G. ELLISON,

Defendant,

) CHAPTER 11
)
)

) BANKRUPTCY
)
)

) NO. 83-00312
)
)

) SATISFACTION OF JUDGMENT
)
)
)

COMES NOW Waterhouse Auctioneers as the sole assignee and owner of the judgment entered against William G. Ellison on November 21, 1984 and assigned by Borg-Warner Acceptance Corporation on January 14, 1985, a copy of which assignment is attached hereto marked Exhibit "A" and herewith acknowledges complete payment and satisfaction of the judgment entered against the defendant in this cause and hereby satisfies said judgment of record.

The undersigned hereby attests that he is the principal owner of Waterhouse Auctioneers and has full and complete authority to execute this instrument on behalf of Waterhouse Auctioneers.

Copy handed to
filing attorney
on date filed *don*

WATERHOUSE AUCTIONEERS, Assignee

By: *Wesley Waterhouse*
Wesley Waterhouse

Recorded Vol I
Page 144

ACKNOWLEDGMENT

STATE OF IOWA)
COUNTY OF) ss

ON this 12 day of Nov 1990, before me, the undersigned,
a Notary Public in and for the State of Iowa, personally appeared
Wesley Waterhouse, known to be the identical person
as Waterhouse Auctioneers, and acknowledged that he executed the
same as his voluntary act and deed.

Leigh A. White
Notary Public in and for the state of Iowa



"Exhibit A"

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

JAN 25 1985

BARBARA A. EVERLY, CLERK

In The Matter Of:

WILLIAM G. ELLISON
and MARGARET Q. ELLISON,

Debtors,

* * * * *

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiff,

vs.

WILLIAM G. ELLISON,

Defendant.

*

*

*

*

*

*

*

*

*

BANKRUPTCY NO. 83-00312
ADVERSARY NO. 84-0115C

ASSIGNMENT OF JUDGMENT

* * * * *

The undersigned owner and holder of the Judgment rendered in the above-entitled cause, for value received does hereby assign, transfer, and set over to Waterhouse Auctioneers that Judgment rendered herein on the 21st day of November, 1984, on the complaint filed by Borg-Warner Acceptance Corporation, as Plaintiff, in the sum of \$36,824.00, including interest and court costs along with attorneys fees of \$25,000.00 as set forth in the Judgment Record of this court in Volume 1, page 144, and that this shall be full authority for the clerk of said court to enter this Assignment upon the records of his office pertaining to said cause.

Dated this 14 day of January, 1985.

BORG-WARNER ACCEPTANCE CORPORATION

By John Holyeross
Title Branch Manager

STATE OF ILLINOIS)
 : SS
COUNTY OF PEORIA)

On this 14th day of January, 1985, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared John Holyeross, to me personally known, who, being by me duly sworn, did say that he is the Branch Manager, respectively, of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said John Holyeross acknowledged the execution of said instrument to be the voluntary act and deed of said corporaion, by it and by them voluntarily executed.

Patricia Weinkauf
Notary Public in and for said
County and State

Copy handed to J. York
attorney
date filed ca.

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

JAN 25 1991

IN RE:

BARBARA A. EVERLY, CLERK

WILLIAM G. ELLISON	*	CHAPTER 11
MARGARET Q. ELLISON	*	
	*	BANKRUPTCY
BORG-WARNER ACCEPTANCE	*	
CORPORATION,	*	NO. 83-00312
Plaintiff,	*	MOTION TO SET ASIDE
	*	SATISFACTION OF JUDGMENT
vs.	*	
WILLIAM G. ELLISON,	*	
Defendant,	*	
* * * * *		

COMES NOW Plaintiff, Borg-Warner Acceptance Corporation and moves the Court to set aside the Satisfaction of Judgment filed with this Court on November 13, 1990. In support thereof the Plaintiff states as follows:

1. On November 21, 1984 a Judgment was rendered against Defendant William G. Ellison.

2. This Judgment was assigned to Waterhouse Auctioneers and their attorney based on an agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

3. This agreement involved a \$12,000.00 payment to Borg-Warner Acceptance Corporation by Waterhouse Auctioneers and a promise to pursue collection against William G. Ellison with the proceeds of such collection to be paid as

follows:

1. Attorneys fees relating to collection with the balance divided.

2. 1/3 Borg-Warner Acceptance Corporation.

3. 1/3 Waterhouse Auctioneers.

4. 1/3 Sebetka.

4. Despite requests and demands for collection efforts by Plaintiff, Waterhouse Auctioneers failed to pursue and make collection against William G. Ellison.

5. In 1989 and 1990 Borg-Warner made efforts to prompt Waterhouse Auctioneers to comply with the settlement agreement. On the 23rd day of April 1990 Waterhouse Auctioneers authorized Borg-Warner Acceptance corporation and its attorneys Richard Rhinehart and Associates to institute collection efforts against William G. Ellison based on their failure to pursue collection efforts.

Attached hereto marked Exhibit "A" and by this reference made a part hereof is a letter authorizing those collection efforts.

6. Borg-Warner Acceptance Corporation has a Judgment which has not been paid, discharged or satisfied against William G. Ellison with an outstanding balance of \$12,000.00 including interest and costs along with attorney's fees of \$2,500.00.

7. The Satisfaction of Judgment filed in this case was fraudulent, false, improper and a violation of the settlement agreement between Borg-Warner Acceptance Corporation and Waterhouse Auctioneers.

8. Waterhouse Auctioneers have not delivered to or paid over to Borg-Warner Acceptance Corporation the monies which are due Borg-Warner Acceptance Corporation pursuant to the settlement agreement and this Judgment.

Accordingly, Borg-Warner Acceptance Corporation prays the Court set aside Satisfaction of Judgment and declare it void as well as enter an Order assessing costs against Waterhouse Auctioneers and William G. Ellison for the fraudulent filing of the Satisfaction of Judgment with this Court.

RICHARD RHINEHART & ASSOCIATES

By R. Scott Rhinehart
R. Scott Rhinehart
310 Frances Bldg.
Sioux City, Iowa 51101
(712) 258-8706

ATTORNEY FOR PLAINTIFF

Copy mailed to
filing attorney

JAN 25 1991 10:49

Recorded Vol. I
Page 144

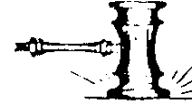
PROOF OF SERVICE

I, R. Scott Rhinehart, certify that I served copies of the foregoing Motion To Set Aside Satisfaction of Judgment by depositing copies thereof in the United States Mail, *certified* postage prepaid on the 21st day of January, 1991, at Sioux City, Woodbury County, Iowa, addressed to their last known address as follows:

Mr. Marvin Waterhouse
Waterhouse Realty and Auctioneers
P.O. Box 126
Manchester, Iowa 52057


R. Scott Rhinehart

WATERHOUSE REALTY AND AUCTIONEERS



RR 1 (Manchester Livestock Auction)

Manchester, Iowa 52057

April 23, 1990

Scott Rhinehart
310 Frances Building
Sioux City, IA 51101



Dear Mr. Rhinehart:

Pursuant to our phone conversation of Friday April 20, 1990, I am hereby authorizing you to pursue collection of debts owed to us, Borg Warner, and Mr. Sebetka by Bill Ellison.

This letter should not be construed as an assignment of our interests and it should be agreed that any sums collected by you would be divided equally among Waterhouse Auctioneers, Sebetka, and Borg Warner.

Sincerely,

Marvin Waterhouse

Marvin Waterhouse
WATERHOUSE REALTY & AUCTIONEERS

EXHIBIT A

Mailing Address P.O. Box 126

Telephone (319) 927-3660

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

FEB - 6 1991

IN RE:)	
)	
WILLIAM G. ELLISON and	)	Chapter 11
MARGARET Q. ELLISON,)	
	)	Bankruptcy No.
Debtors.	)	83-00312
)	
<hr/> BORG-WARNER ACCEPTANCE)	
CORPORATION,)	
	)	Adversary No.
Plaintiff,	)	84-0115C
)	
vs.)	
)	
WILLIAM G. ELLISON,)	
)	
Defendant.)	

BARBARA A. EVERLY, CLERK

RESISTANCE TO MOTION TO SET ASIDE SATISFACTION OF JUDGMENT

COMES NOW Waterhouse Auctioneers, by and through their attorney, Joseph A. Peiffer of Eells & Peiffer, P.C., and in resistance to the Motion to Set Aside Satisfaction of Judgement states the following:

1. Paragraph one is admitted.
2. Waterhouse Auctioneers admits that the Judgment was assigned to them. But, however, they deny that the assignment was based upon an agreement between Borg-Warner and themselves with respect to collection and remittance of collection from the judgment to Borg-Warner and the Shebetkas.
3. Waterhouse Auctioneers admit that they paid \$12,000.00 in return for an assignment of the judgment against William G. Ellison, but deny the balance of the portions of paragraph three stating that in the event any agreement was allegedly made requiring Waterhouse Auctioneers to pursue collection and remit

proceeds as set forth in paragraph three that said agreement was made without any authority given to the Waterhouse Auctioneer's attorney. Any parts of any alleged agreement relating to collection efforts and payment of sums collected to Borg-Warner and the Shebetkas were made without consultation and without authority of Waterhouse Auctioneers.

4. Waterhouse Auctioneers admits that it has not pursued collection efforts against William Ellison.

5. Waterhouse Auctioneers admits that Borg-Warner sought to have Waterhouse Auctioneers collect its judgment against William Ellison in 1989 and 1990. The "authorization" referred to as occurring on April 23, 1990, was rescinded by Waterhouse Auctioneers in writing on June 15, 1990. Said "authorization" was signed by Marvin Waterhouse, not Wesley Waterhouse, the person who made the payment to Borg-Warner to settle the dispute between Borg-Warner and Waterhouse Auctioneers.

6. Paragraph six is denied.

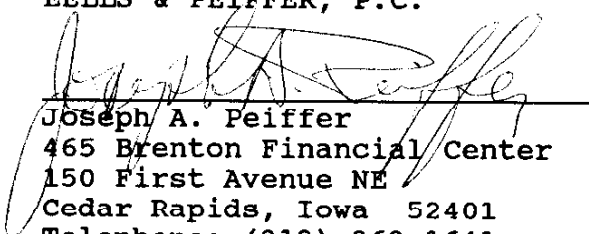
7. Paragraph seven is denied.

8. Paragraph eight is denied inasmuch as Waterhouse Auctioneers has made no collections on said judgment and therefore, no monies are due Borg-Warner Acceptance Corporation.

WHEREFORE, Waterhouse Auctioneers respectfully request that this Court refuse to set aside the Satisfaction of Judgment and that the Motion to Set Aside the Satisfaction of Judgment be denied and all costs be assessed against the Movant, Borg-Warner Acceptance Corporation.

DATED this 9 day of February, 1991.

EELLS & PEIFFER, P.C.


Joseph A. Peiffer
465 Brenton Financial Center
150 First Avenue NE
Cedar Rapids, Iowa 52401
Telephone: (319) 363-1641
ATTORNEY FOR WATERHOUSE
AUCTIONEERS

Copies to:

R. Scott Rhinehart
310 Frances Building
Sioux City, Iowa 51101

United State Trustee
425 2nd Street SE, Box 47
Suite 675 The Center
Cedar Rapids, Iowa 52401

Wythe Willey
425 2nd Street SE
Skywalk #3
Cedar Rapids, Iowa 52401

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that a copy of this document was served upon, mailed, or delivered to counsel of record, debtor, and other parties of interest in compliance with Bankruptcy Rules 7004 and 9014 on the 4th day of February, 1991

Deborah A. Fink

Copy mailed to
filing attorney

FEB - 6 1991 *by*

FEB 22 1991

BARBARA A. EVERLY, CLERK

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:

CHAPTER 11
BANKRUPTCY NO.

WILLIAM G. ELLISON
MARGARET Q. ELLISON,
Debtor(s),

83-00312

BORG-WARNER ACCEPTANCE
CORPORATION,
Plaintiff(s),

ADVERSARY NO.
84-0115C

vs.

WILLIAM G. ELLISON,
Defendant(s).

Notice Setting Hearing on Motion to
Set Aside Satisfaction filed January 25, 1991
by plaintiff, and Resistance by Waterhouse Auctioneers

TO: R. Scott Rhinehart, Attorney for Movant;
Joseph Peiffer, Attorney for Waterhouse Auctioneers;
U.S. Trustee;

NOTICE IS GIVEN a hearing on the above matter will come before
the Court on:

March 14, 1991 at 2:00 P.M. in the

Bankruptcy Court Room, 800 The CENTER, 425 Second St. S.E.,
CEDAR RAPIDS, IOWA.

DATED February 22, 1991

BARBARA A. EVERLY
Clerk, Bankruptcy Court

by: *Marion A. Galay*
Deputy Clerk
PO Box 74890
Cedar Rapids, IA 52407

Copies mailed to
parties above-named
this February 22, 1991
and informational copy to

Wythe Willey mg
Copy to William Ellison
3-11-91 mg

RB/mg
AO 72A
(Rev. 8/82)
per

Vol. I
Page 144

No. BY-83-00312

United States Bankruptcy Court
FOR THE
NORTHERN DISTRICT OF IOWA
Waterhouse Auctioneers

v.

William G. Ellison

WRIT OF EXECUTION

Returnable

Real Debt,
Int. from
Attorney
Clerk
Marshal
Other Items
Marshal
Clerk

Costs on Writ

Attorney for Plaintiff.

Deputy Marshal.

U.S. Marshal.

Received the within writ the _____ day of _____, 1988, and executed same.

UNITED STATES MARSHAL'S RETURN
NORTHERN _____ DISTRICT OF IOWA
ss: _____

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

APR 15 1985

IN RE:
WILLIAM G. ELLISON
and MARGARET Q. ELLISON,
Debtors.

BANKRUPTCY NO.
83-00312

ADVERSARY NO.
84-0115C

BARBARA A. EVERLY, CLERK

BORG-WARNER ACCEPTANCE
CORPORATION,
Plaintiff,

NOTICE of Assignment of Judgment

vs.

WILLIAM G. ELLISON
Defendant.

TO: BORG-WARNER ACCEPTANCE CORPORATION
WILLIAM ELLISON, Debtor
WATERHOUSE AUCTION COMPANY of Central City, Iowa

NOTICE IS GIVEN the enclosed Assignment of Judgment has been
filed in the Office of the Clerk.

NOTICE IS FURTHER GIVEN said assignment from Borg-Warner
Acceptance Corporation to Waterhouse Auction Company will be
so recorded on the Judgment records of this court unless
objection is received within five (5) days from the date
of this notice.

DATED April 15, 1985

BARBARA A. EVERLY
Clerk, Bankruptcy Court

Copy of Judgment and
Assignment of Judgment to:
R. Scott Rhinehart, Atty for Plaintiff;
R. Fred Dumbaugh, Atty for Defendant;
Franklin York, Atty for Waterhouse Auction
this 4/15/85
Thomas A. Golay
Deputy Clerk
P O Box 4371
Cedar Rapids, IA 52407

RECORDED: Volume 1
Page 144

this April 23, 1985 *Jan*

JAN 25 1985

UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF IOWA

BARBARA A. EVERLY, CLERK

In The Matter Of:

WILLIAM G. ELLISON
and MARGARET Q. ELLISON,

Debtors,

* * * * *

BORG-WARNER ACCEPTANCE
CORPORATION,

Plaintiff,

vs.

WILLIAM G. ELLISON,

Defendant.

*

BANKRUPTCY NO. 83-00312

*

ADVERSARY NO. 84-0115C

*

*

*

*

ASSIGNMENT OF JUDGMENT

*

*

*

* * * * *

The undersigned owner and holder of the Judgment rendered in the above-entitled cause, for value received does hereby assign, transfer, and set over to Waterhouse Auctioneers that Judgment rendered herein on the 21st day of November, 1984, on the complaint filed by Borg-Warner Acceptance Corporation, as Plaintiff, in the sum of \$36,824.00, including interest and court costs along with attorneys fees of \$25,000.00 as set forth in the Judgment Record of this court in Volume 1, page 144, and that this shall be full authority for the clerk of said court to enter this Assignment upon the records of his office pertaining to said cause.

Dated this 14 day of January, 1985.

BORG-WARNER ACCEPTANCE CORPORATION

By John Holyeross
Title Branch Manager

STATE OF ILLINOIS)
 : SS
COUNTY OF PEORIA)

On this 14th day of January, 1985, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared John Holyeross, to me personally known, who, being by me duly sworn, did say that he is the Branch Manager respectively, of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said John Holyeross acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Patricia Weinkopf
Notary Public in and for said
County and State

Copy handed to J. York
City attorney
on date filed on

United States Bankruptcy Court

For the NORTHERN District of IOWA

WRIT OF EXECUTION

To: The United States Marshal for the Northern District of Iowa,

Greeting:

Vol. 1, Page 1

On the 21st day of November, 1984 judgment was rendered in this action that the plaintiff, Borg-Warner Acceptance Corporation, shall recover from the defendants William G. Ellison & Margaret Q. Ellison the sum of \$ 36,824. together with interest thereon at the rate of 10 percent per annum from the 19th day of March, 1984, until paid, and \$2,500 - Attorney Fees ~~XXXX~~ were taxed against the defendants William G. Ellison and Margaret Q. Ellison. The judgment was duly entered and docketed in the records of the clerk of this court on the 21st day of November, 1984, but no part of the judgment, interest thereon, or costs has been paid or satisfied.

* An Assignment of Judgement was Executed on January 14, 1985, wherein Plaintiff, Borg-Warner Acceptance Corporation assigned its interest in the full amount of said judgment Therefore, to Waterhouse Auctioneers.

You are hereby commanded to expose to execution sale so much of the property of the defendants William G. Ellison and Margaret Q. Ellison, as may have been attached at the commencement of this action to insure enforcement of the judgment as is necessary to satisfy the judgment, accrued interest thereon, costs of suit, and your execution costs and expenses, the property that was attached being described as follows:

All proceeds of Closeout Auction of General Store, Hwy. 30, Lisbon held on Fri., Nov. 20 at 6:00 p.m., Sat., Nov. 21 at 10:00 a.m. and Sun., Nov. 22 at Noon, which are payable to William G. Ellison or Margaret Q. Ellison.

If such property is insufficient to satisfy the aforementioned amounts due from the defendant, William G. Ellison and Margaret Q. Ellison, you are further commanded to subject to execution sale sufficient of the defendant's other nonexempt personal property situated in your district as may be necessary to satisfy the remaining balance, and if such personal property is insufficient, then you are commanded to satisfy any final balance by a levy on and sale of sufficient of the defendant's remaining nonexempt real property situated within your district.

You are further commanded to return this writ with an endorsement thereon showing the manner of your compliance with its terms, together with the proceeds from the execution sale or sales, by the day of _____, 1987.



[Seal of the U.S. Bankruptcy Court]

Date of issuance: November 19, 1987

BARBARA A. EVERLY

Clerk of Bankruptcy Court

By:

Mary Lou Brunkhorst
Deputy Clerk

U.S. Bankruptcy Court
P. O. Box 4371
Cedar Rapids, IA 52407

Original signed & ret'd to White, Stone, Asgaard & York 11-19-87 mzb

Vol. I
PAGE 14

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

BKY

PLAINTIFF BORG-WARNER ACCEPTANCE CORPORATION		COURT CASE NUMBER BY-83-00312
DEFENDANT William G. Ellison and Margaret Q. Ellison		TYPE OF PROCESS WRIT OF EXECUTION
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN General Store Auction	
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) Hwy. 30, Lisbon, Iowa	

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:	Number of process to be served with this Form - 285	
	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold
Levy on all proceeds payable to William G. Ellison or Margaret Q. Ellison from closeout auction of General Store, Hwy. 30, Lisbon, Iowa; held on Friday, November 20, 1987 at 6:00 p.m.; Saturday, November 21, 1987 at 10:00 a.m.; and Sunday, November 22, 1987 at Noon. Check to see if there is an auction clerk, and if so, serve the clerk also with garnishment interrogatories.

Signature of Attorney or other Originator requesting service on behalf of: <i>Franklin R. York</i>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER (319) 373-1962	DATE 11/20/87
---	---	------------------------------------	------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. 29	District to Serve No. 29	Signature of Authorized USMS Deputy or Clerk DL RETTENMEIER	Date 11/20/87
---	---------------	------------------------------	-----------------------------	--	------------------

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., shown above (See remarks below)

Name and title of individual served (if not shown above) <i>William G. Ellison</i>	NOV 25 1987	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode. Date of Service: <i>11/21/87</i> Time: <i>4:30</i> pm Signature of U.S. Marshal or Deputy <i>/s/ Fred G. Meyer, CDUSM</i>
Address (complete only if different than shown above) <i>BARBARA A. EVERLY, CLERK</i>		

Service Fee <i>3.00</i>	Total Mileage Charges (including endeavors) <i>5.28</i>	Forwarding Fee —	Total Charges <i>8.28</i>	Advance Deposits	Amount owed to U.S. Marshal or <i>\$8.28</i>	Amount of Refund
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REMARKS:

MR ELLISON & Lenny Leppe (owner of GENERAL STORE) REFUSED TO TURN OVER ANY MONEY. BOTH WERE SERVED A WRIT OF EXECUTION AND A DEMAND WAS MADE ON BOTH. SINCE MR ELLISON REFUSED ON 11/21/87 I did NOT go on 11/22/87 AS HE SAY HE WOULD REFUSE THEN ALSO. MR ELLISON WAS TO CONTACT HIS ATTORNEY & CALL THE USMS OFFICE 11/23/87

PRIOR EDITIONS MAY BE USED

1. CLERK OF THE COURT

FORM USM-285 (Rev. 12/15/80)
Vol. I Page 144

United States Bankruptcy Court

BKY 83-00312

For the NORTHERN District of IOWA

WRIT OF EXECUTION

To: The United States Marshal for the Northern District of Iowa,

Greeting:

Vol. 1, Page 144

On the 21st day of November, 1984 judgment was rendered in this action that the plaintiff, Borg-Warner Acceptance Corporation, shall recover from the defendants William G. Ellison & Margaret Q. Ellison, the sum of \$36,824. together with interest thereon at the rate of 10 percent per annum from the 19th day of March, 1984, until paid, and \$2,500 - Attorney Fees ~~costs~~ were taxed against the defendants William G. Ellison and Margaret Q. Ellison. The judgment was duly entered and docketed in the records of the clerk of this court on the 21st day of November, 1984, but no part of the judgment, interest thereon, or costs has been paid or satisfied.

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You are further commanded to return this writ with an endorsement thereon showing the manner of your compliance with its terms, together with the proceeds from the execution sale or sales, by the day of _____, 1987.



[Seal of the U.S. Bankruptcy Court]

Date of issuance: November 19, 1987

BARBARA A. EVERLY

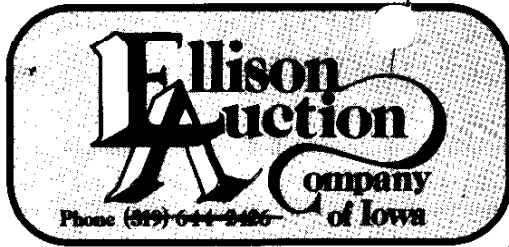
Clerk of Bankruptcy Court

By:

Mary Lou Brunkhorst
Deputy Clerk

U. S. Bankruptcy Court
P. O. Box 4371
Cedar Rapids, IA 52407

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PAGE 144



FINAL SETTLEMENT

Date 11-27-87

OWNER William G. Ellison
Address P.O. Box 398 Phone _____
City Lisbon State Iowa Zip Code 52253
Date of Sale 11-21-87
Sale Location General Store Closeout & Consignment
Address 215 Kirkwood
City Lisbon State Iowa Zip Code 52253

PROCEEDS OF SALE: Cash \$ _____
Checks \$ _____

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

ITEMS:
~~Other~~

<u>1975 FORD LTD CAR</u>	<u>250.00</u>
<u>FEED BUNK</u>	<u>27.50</u>
<u>FEED BUNK</u>	<u>22.00</u>

NOV 30 1987

BARBARA A. EVERLY, CLERK

TOTAL PROCEEDS OF SALE \$ 297.50

LESS SELLER'S SALE EXPENSE:

Auctioneer's Fee 25% \$ 74.88

LOT NO. - ITEM

NAME OR NO.

LOT NO. - ITEM

NAME OR NO.

YOUR RECEIPT FOR ABOVE

YOUR RECEIPT FOR ABOVE

attached list).....

DEDUCT TOTAL SELLER'S SALE EXPENSE \$ 74.88

TOTAL NET PROCEEDS TO SELLER \$ 224.62

We agree this constitutes a complete and full settlement for the above auction and do hereby release the auction company and its employees from any or all liabilities arising from same.

11-27-87

(Date)

Ellison Auction Co. of Ia
(Auctioneer or Cashier's Signature)

(Seller's Signature)

(Seller's Signature)

RE
VOL. I
PAGE 144

LISBON BANK AND TRUST CO.
LISBON, IOWA



ELLISON AUCTION 6-84
COMPANY OF IOWA
BOX 398 PH. 319-455-2703
LISBON, IA 52253

1557

PAY
TO THE
ORDER OF

U.S. Bankruptcy Court
Two Hundred Twenty Four & 62/100

Nov 25 1987

72-1426
739

\$ *224.62*

DOLLARS

First Attachment in Full

ELLISON AUCTION COMPANY OF IOWA

ORIGINAL

AO 82B
(Rev. 1/87)

RECEIPT FOR PAYMENT

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

11528

RECEIVED
FROM:

Ellison Auction
Box 398
Lisbon, Ia.

CASE NUMBER OR OTHER REFERENCE

83-00312

Account Code

110 Deposit Fund
330 Filing Fee
350 Miscellaneous Fee
365 Noticing Fees
370 Interest Deposits to U.S.
380 Recovery - Court Costs
400 Crime Victims Fund
425 U.S. Trustee System Fund
460 Forfeitures of Unclaimed Money
X600 Unclaimed Money
Registry Fund

ACCOUNT	AMOUNT
<i>110</i>	<i>224.62</i>
TOTAL	<i>224.62</i>

Execution
re. Judgment

Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.

DATE *11-30-87* Cash ☒ Check ☒ M.O. ☐

DEPUTY CLERK *ll*

re Vol. I
Page 144

VOUCHER AND SCHEDULE OF PAYMENTS

(MEMORANDUM)

U. S. BANKRUPTCY COURT

Schedule No. 471Sheet 1 of 1

BUREAU OR OFFICE NORTHERN DISTRICT OF IOWA	
LOCATION OF TRANSMITTING OFFICE CEDAR RAPIDS, IOWA	AGENCY STATION NO. 8629
APPROPRIATION SUMMARY CAN 110 - \$224.62	

 PAID BY
 PAID BY DO
 SYMBOL 5697

DEC 10 1987

VOUCHER NO.	PAYEE, AND IF NECESSARY, ADDRESS, INVOICE NO. OR OTHER IDENTIFICATION	AMOUNT	D. O. CHECK NO.
	WATERHOUSE AUCTIONEERS c/o White, Stone, Aasgaard & York Attorneys at Law P. O. Box 388 Marion, IA 52302 Payment received from Ellison Auction Co. of Iowa, re judgment entered 11-21-84 in case No. 83-00312, and Assignment of Judgment filed 1-25-85. Funds receipted for 11-30-87.	224.62	
GRAND TOTAL		224.62	

 FILED
 U.S. BANKRUPTCY COURT
 NORTHERN DISTRICT OF IOWA

DEC 28 1987

BARBARA A. EVERLY, CLERK

 VOL. I
 Pg. 144

MEMORANDUM

12/1/87

(date)

Theresa M. Kula / Deputy Clerk

United States Bankruptcy Court

For the Northern District of Iowa

WRIT OF EXECUTION

To: The United States Marshal for the Northern District of Iowa

Greeting:

On the 21st day of November, 1984, judgment was rendered in this action that the plaintiff, Borg-Warner Acceptance Corporation, shall recover from the defendant, William G. Ellison, the sum of \$ 36,824.00 together with interest thereon at the rate of 18 percent per annum from the 21st day of November, 19 84 until paid, and \$25,000 attorney fees & costs were taxed against the defendant, William G. Ellison. The judgment was duly entered and docketed in the records of the clerk of this court on the 21st day of November, 19 84, but no part of the judgment, interest thereon, or costs has been paid or satisfied, except for \$224.62 by prior execution. Said judgment was assigned to Waterhouse Auctioneers on January 14, 1985.

You are hereby commanded to expose to execution sale so much of the property of the defendant, William G. Ellison, as may have been attached at the commencement of this action to insure enforcement of the judgment as is necessary to satisfy the judgment, accrued interest thereon, costs of suit, and your execution costs and expenses, the property that was attached being described as follows:

Commission and any proceeds of auctions payable to William G. Ellison.

If such property is insufficient to satisfy the aforementioned amounts due from the defendant, William G. Ellison, you are further commanded to subject to execution sale sufficient of the defendant's other nonexempt personal property situated in your district as may be necessary to satisfy the remaining balance, and if such personal property is insufficient, then you are commanded to satisfy any final balance by a levy on and sale of sufficient of the defendant's remaining nonexempt real property situated within your district.

You are further commanded to return this writ with an endorsement thereon showing the manner of your compliance with its terms, together with the proceeds from the execution sale or sales, by the day of _____, 19 88.



[Seal of the U.S. Bankruptcy Court]

Date of issuance: October 11, 1988

BARBARA A. EVERLY

Clerk of Bankruptcy Court

By:

Cherlene K. Cannon
Deputy Clerk

U. S. Bankruptcy Court
P. O. Box 74890
Cedar Rapids, IA 52407

*Orig signed & ret'd to White, Stone, Asgaard & York
10-11-88 VKC*

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PAGE 144*

UNITED STATES MARSHAL'S RETURN

NORTHERN DISTRICT OF IOWA ss:

Received the within writ the day of , 1988 , and executed same.

U.S. Marshal.

By Deputy Marshal.

No. BY-83-00312

United States Bankruptcy Court
FOR THE
NORTHERN DISTRICT OF IOWA

Waterhouse Auctioneers

v.

William G. Ellison

WRIT OF EXECUTION

Returnable

Real Debt,
Int. from
Attorney
Clerk
Marshal
Other Items
Marshal
Clerk

Costs on Writ

Attorney for Plaintiff.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF <i>Borg-Warner Acceptance Corp.</i>	COURT CASE NUMBER <i>By-83-00312</i>
DEFENDANT <i>William G. Ellison</i>	TYPE OF PROCESS <i>Writ of Execution</i>

SERVE ➡ AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN <i>William G. Ellison / Ellison Auction Co. of Iowa</i>
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <i>Sat - Auction - 3003 Kenway Blvd, Cedar Rapids, IA at 11 am</i> <i>Sun - Auction - 323 Palisades Access Road</i>

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	
<i>Franklin R. York</i> <i>White, Stone, Asgaard + York</i> <i>1080 - Ninth Ave.</i> <i>Po Box 388, Marion, IA 52302</i>		Number of parties to be served in this case	
		Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Levy on all proceeds/commissions payable to William G. Ellison from Public Auction for Leo Bopp at 3003 Kenway Blvd, Cedar Rapids, IA on Saturday Oct. 15, 1988 at 2:00 pm. Check to see if there is an auction clerk and if so, serve the clerk also with garnishment interrogatory 2:00 (Auction starts at 11 am)

Signature of Attorney or other Originator requesting service on behalf of:	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER	DATE
<i>Franklin R. York by J. R. York</i>		<i>(319) 377-1569</i>	<i>10-11-88</i>

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
		No. <i>29</i>	No. <i>29</i>	<i>[Signature]</i>	<i>10-11-88</i>

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above) <i>SUNNY ELLISON - CLERK</i>	U.S. BANKRUPTCY COURT NORTHERN DISTRICT OF IOWA OCT 18 1988 BARBARA A. EVERLY, CLERK	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)	Date of Service <i>10/15/88</i>	Time <i>12:05</i> pm
	Signature of U.S. Marshal or Deputy <i>[Signature]</i>	

Service Fee <i>\$ 3.00</i>	Total Mileage Charges (including endeavors) <i>\$ 4.20</i>	Forwarding Fee <i>- 0 -</i>	Total Charges <i>\$ 7.20</i>	Advance Deposits	Amount owed to U.S. Marshal or <i>43.48</i>	Amount of Refund
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REMARKS:
2 hrs OT @ 18.14 ph = 36.28

PRIOR EDITIONS
MAY BE USED

1. CLERK OF THE COURT


FORM USM-285 (Rev. 12/15/80)

See Vol. I
Page 144

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF <u>BORG-WARNER Acceptance Corp</u>	COURT CASE NUMBER <u>88-3-C0312</u>
DEFENDANT <u>William G. Ellison</u>	TYPE OF PROCESS <u>Writ of Execution</u>
SERVE  NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN <u>William G. Ellison / Ellison Auction Co. of Iowa</u> ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <u>223 Palisades Access Road - 1 pm Sun. Oct 16, 1988</u> <u>2 mi E. of Ely 1/4 mi N.</u>	

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW: <u>Franklin R. York</u> <u>White, Stone, Asquard + York</u> <u>P.O. Box 388</u> <u>Marion, IA 52302</u>	Number of process to be served with this Form - 285	
	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Levy on all proceeds/commissions payable to William G. Ellison from Public Auction for William R. Netolicky Estate at 223 Palisades Access Road - 2 mi East of Ely, 1/4 mile N. on Sunday Oct 16, 1988 at 4:00 pm. Check to see if there is an auction clerk and if so, serve the clerk also with garnishment interrogatories (auction starts at 1 pm)

Signature of Attorney or other Originator requesting service on behalf of: <u>Franklin R York by Jen Ryth</u>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER <u>(319) 377-1509</u>	DATE <u>10-11-88</u>
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. <u>29</u>	District to Serve No. <u>29</u>	Signature of Authorized USMS Deputy or Clerk <u>[Signature]</u>	Date <u>10-11-88</u>
---	---------------	-------------------------------------	------------------------------------	--	-------------------------

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above) <u>SUNNY ELLISON</u>	U.S. BANKRUPTCY COURT NORTHERN DISTRICT OF IOWA OCT 18 1988 BARBARA A. EVERLY, CLERK	<input checked="" type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above)		Date of Service <u>10-16-88</u>
		Time <u>4:05</u> pm
		Signature of U.S. Marshal or Deputy <u>Tobin H. Michael</u>

Service Fee <u>3.00</u>	Total Mileage Charges (including endeavors) <u>6.00</u>	Forwarding Fee <u>-</u>	Total Charges <u>9.00</u>	Advance Deposits	Amount owed to U.S. Marshal or <u>54.35</u>	Amount of Refund
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REMARKS: 2.5 hrs OT @ 18.14 ph = 45.35

United States Bankruptcy Court

For the Northern District of Iowa

WRIT OF EXECUTION

To: The United States Marshal for the Northern District of Iowa,

Greeting:

On the 21st day of November, 1984, judgment was rendered in this action that the plaintiff, Borg-Warner Acceptance Corporation, shall recover from the defendant, William G. Ellison, the sum of \$ 36,824.00 together with interest thereon at the rate of 18 percent per annum from the 21st day of November, 19 84 until paid, and \$25,000 attorney fees & costs were taxed against the defendant, William G. Ellison. The judgment was duly entered and docketed in the records of the clerk of this court on the 21st day of November, 19 84 but no part of the judgment, interest thereon, or costs has been paid or satisfied, except for \$224.62 by prior execution. Said judgment was assigned to Waterhouse Auctioneers on January 14, 1985.
Therefore:

You are hereby commanded to expose to execution sale so much of the property of the defendant, William G. Ellison, as may have been attached at the commencement of this action to insure enforcement of the judgment as is necessary to satisfy the judgment, accrued interest thereon, costs of suit, and your execution costs and expenses, the property that was attached being described as follows:

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day of _____, 19 88.



[Seal of the U.S. Bankruptcy Court]

Date of issuance: October 11, 1988

BARBARA A. EVERLY

Clerk of Bankruptcy Court

By:

Charles K. Cannon
Deputy Clerk

U. S. Bankruptcy Court
P. O. Box 74890
Cedar Rapids, IA 52407